



An  
Bord  
Pleanála

## Inspector's Report PL.06D.248541

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<b>Development</b>	Demolition of existing house and construction of 2 houses with all associated site works.
<b>Location</b>	No. 5 Sycamore Walk, Cabinteely, Dublin 18.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council.
<b>Planning Authority Reg. Ref.</b>	D16A/0302.
<b>Applicants</b>	Simon & Marion Perry.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party.
<b>Appellants</b>	Claremount Management Company and Claremount Residents Committee.
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	18 <sup>th</sup> August 2017.
<b>Inspector</b>	Dáire McDevitt.

## **1.0 Site Location and Description**

- 1.1.** Sycamore Walk is a mature suburban area within Cabinteely to the southwest of the Stillorgan Road (N11). The application site was developed as part of a scheme of detached houses built in the 1980s which is part of a larger residential area referred to as 'The Park'.
- 1.2.** No. 5 Sycamore Walk is a detached house with gable forming the front elevation addressing the road. The site fronts onto Sycamore Walk, a cul-de-sac serving 10 houses. It is bounded to the rear (north) by houses (Sycamore Close), to the east by No. 4 Sycamore Walk and to the west by No. 13 & 14 Claremount and an area of open space associated with that development. The Claremount development is raised c.3 metres above the Park and is bounded by a granite wall associated with Claremount House. The houses fronting Sycamore Walk are built on a hill which slopes from west to east, levels drop by c. 1. metre between No. 5 and No. 4 Sycamore Walk, and continue to drop by a similar amount each time until No. 1 Sycamore Walk. Given the stepped nature of the sites there are retaining walls forming side boundaries to the rear gardens. A number of the houses have converted the attic space and installed rooflights.
- 1.3.** No. 5 is set back from the road in line with the adjoining houses along this northern side of Sycamore Walk. There is a raised ledge running along the western portion of the housing development. It runs for the full length of the appeal site. This raised terraced area is c. 1.5 metres above the ground level of the main bulk of the site and is supported by a retaining wall. The upper section of the garden is bounded by the stone wall which bounds Claremount and is covered in ivy.
- 1.4.** Maps, photos and aerial images of site are in the file pouch

## **2.0 Proposed Development**

Permission to demolish an existing c.134.54 sq.m dwelling (single storey with attic conversion) and construct 2 no. semi-detached storey and a half dwellings (c.148.51 sq.m gfa each) with a total gfa of c. 297.02 sq.m on a site with an overall area of c.

0.0846 hectares with external materials and finishes to match the adjoining houses in Sycamore Walk.

The proposal includes excavation of the raised ledge/terrace and the construction of a new retaining wall. It is proposed to connect to existing services.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Grant permission subject to 17 Standard conditions.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

- There are a number of planning reports on file. The main concerns raised under Further Information and Clarification of Further Information related to structural engineering reports concerning the impact of the removal of the retaining wall and material from the site on the stability of the old stone boundary wall between the two housing schemes, the impact on the adjoining structures in Claremount and specifications for the new retaining wall.
- Outstanding traffic and drainage issues were also addressed to the satisfaction of the Planning Authority in the further information submitted.

##### **3.2.2. Other Technical Reports**

**Drainage Department.** The Further Information response dealt with outstanding issues. No objection subject to conditions.

**Transportation Planning Department.** The Further Information response dealt with outstanding issues. No objection subject to conditions.

**Irish Water.** No objection subject to conditions.

### **3.3. Prescribed Bodies**

None.

### **3.4. Third Party Observations.**

10 submissions were received by the Planning Authority, eight of which relate to residents of Claremount (No. 22, 18, 14, 21, 11, 17, 23, 13), one from No. 6 Sycamore Walk and one from Claremount Residents Committee and Management Company, the current appellants. The issues raised generally reflect those raised in the appeal.

Subsequent submissions were received in relation to the Further Information and Clarification of Further Information responses.

The submissions can be summarised as follows.

- Overlooking and overshadowing of adjoining properties and the green area serving the Claremount housing development.
- Concerns regarding the impact on the stability of the granite wall which bounds the site and forms part of the original boundary of Claremount House, a Protected Structure and in relation to the impact on adjacent dwellings.
- Concerns regarding the quality of the reports submitted with the application.
- Traffic and parking issues.
- Loss of sea views from the adjoining houses in Claremount and from its green area.
- Devaluation of property.
- Damage to the boundary wall and implications for land slippage at Claremount, especially No. 14.
- Inaccurate drawings submitted

- Request that an occupancy condition be attached so that the property cannot be sold for commercial gain.
- Non-compliance with the Building Regulations.
- Disruption to residents from the construction activities.

## 4.0 Planning History

There is no recent planning history attached to the site.

**Planning Authority Ref. 93B/0110** refers to a 1993 grant of permission for retention of an attic conversion to accommodate 2 bedrooms and an en-suite.

**Planning Authority Ref. D07B/0293** refers to a 2007 grant of permission for a dormer extension to the side and single storey extension to the front and rear that was never constructed.

### **Other applications of note at The Park for sites bounding Claremount:**

**Planning Authority Ref. D04A/0490** refers to a 2004 grant of permission for a pair of 2 storey semi-detached houses at **No. 6 Sycamore Green** bounding the walled garden of Claremount House.

**Planning Authority Ref. D04A/1450. ABP Ref. PL.06D.213279** this refers to a 2005 grant of permission for 2 no. semi-detached houses at **No. 10 Sycamore Close** which bounded the walled garden of Claremount House. The issue of rock excavation, structural damage to properties and the stability of the old boundary wall was raised. The Inspector noted that on the related issues of ground conditions and the boundary wall, the Planning Authority was satisfied that the additional information supplied dealt adequately with the issues. This included Condition No. 2 (2) *No part of the proposed westernmost house shall be closer than three metres from the western boundary of the site and no part of the retaining wall shall be closer than 1.5 metres from the western boundary of the site. Reason: In the interest of orderly development.*

### **Claremount:**

The application for the Claremount Housing Development is **P.A. Ref. D05A/0996, ABP Ref. PL.06D.214795**, this refers to Claremont House, a

Protected Structure in its public notices. This was also included in a subsequent application for amendments.

## **5.0 Policy Context**

### **5.1 Dun Laoghaire Rathdown County Development Plan 2016-2022**

**Land Use Zoning Objective 'A'** *To protect or improve residential amenity.*

**RES3** states that it is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. And as a general rule the minimum default density for new developments in the county (excluding lands on zoning objective 'GB', 'G' and 'B') shall be 35 units per hectare.

**RES4** states that it is Council policy to improve and conserve housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.

**Appendix 4** includes the Record of Protected Structures & Architectural Conservation Areas. The Record of Protected Structures does not define the curtilage for the Protected Structures.

The structure of relevance for this report is Claremount House, which is included in the Record of Protected Structure (RPS Ref. 1667) and subject to the appropriate policies as set out in Section 6.1.3 and Section 8.2.11.2 of the Plan.

## **General development management standards:**

**Section 8.2.3.4(vii)** refers to infill sites. Such proposals shall be considered in relation to a range of criteria including respecting the massing and height of existing residential units.

**Section 8.2.3.1** refers to the objective of the Council to achieve high standards of design and layout and to foster and create high quality, secure and attractive places for living.

**Section 8.2.3.5** refers to the general requirements for residential development including habitable room sizes.

**Section 8.2.8.4 (i)** sets out the private open space requirements for private houses. A figure of 75 sq.m may be acceptable for a 4 bed house in cases where good quality open space is provided. Narrow strips of space along the side of dwellings shall not be included in the calculation. There is provision for a relaxation of the standard where an innovative design response is provided on site.

**Section 8.2.8.4 (ii)** refers to separation distances and the standard garden depth of 11 metres and in certain circumstance 7 metre depths may be acceptable for single storey dwellings.

## **5.2 Sustainable Residential Development in Urban Areas (DoEHLG 2009)**

**Section 5.8 (i)** refers to Infill residential development and that potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The local area plan should

set out the planning authority's views with regard to the range of densities acceptable within the area.

### **5.3 Natural Heritage Designations**

None of relevance.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

A third party appeal was lodged by Claremount Management Company and Claremount Residents Committee and can be summarised as follows:

- The negative impact the proposal would have on the stability the old rubble granite wall (over 150 years old) which forms the boundary between Claremount Housing Estate and The Park Housing Estate.
- The presence of granite here resulted in the original retaining wall at The Park being constructed. Any works/removal of this retaining wall would have serious implications for the stability of the boundary wall between the two housing developments, land slippage and structural damage to houses at Claremount, especially No. 14.
- The appellants have queried the methodology and quality of the drawings and reports pertaining to the issues of the new proposed retaining wall, existing boundary wall and the removal of material from site submitted with application.
- The use of a rock breaker due to the presence of significant quantities of granite which would result in noise, vibration and dust nuisance for adjacent residents.
- The loss of Sea Views from the green area serving Claremount and the houses facing this area, which would devalue said properties and detract from the amenities of the residents.
- The proposal does not comply with the Building Regulations.



- Request that an occupancy condition be attached in the event of a grant of permission to ensure the properties are not for commercial gain.
- Other non-planning related matters were raised in the appeal.

The appeal includes an Engineers Report relating to the issues of the retaining wall, building regulations, methodology and quality of the information submitted with the application. This report concluded:

- There is no indication that any geotechnical investigation, trial excavations or bore holes were undertaken to determine the existence or absence of rock, the overarching nature of the ground conditions or indeed, the condition of the foundations of the existing stone boundary wall shared with the development at Claremount.
- The proposal submitted with the application includes the radical reduction in ground level through the elimination of the current stepped bank and the construction of a new reinforced concrete retaining wall. This is not considered acceptable as the retaining wall would not only extend effectively to the western boundary, but would be required to support a very old rubble wall, which exists at a significantly higher level and forms part of the boundary with Claremount.
- The stepped nature of the garden associated with the application site is a result of the granite ledge encountered here when the development was constructed c. 35 years ago.
- The use of the 'hit and miss' methodology proposed to underpin the wall. This raises issues as in order to build the retaining wall element, the base/ foundation (referred to as the toe) of the retaining wall needs to be constructed first which would require breaking out the rock. This is not possible without damaging the existing stone wall, undermining and causing landslip to the public area and cause damage to the structure and sub-structure at No. 14.
- The drawings submitted with the application appear to show inconsistencies regarding the location of the building in relation to the proposed retaining wall.

- The proposal does not comply with the Building Regulations, the side passage which serves as the access to the house along the western boundary is c. 850mm in width. This would be further reduced to c. 530mm if the applicant's engineer's suggestions are implemented.

## **6.2. Applicant Response**

None.

## **6.3. Planning Authority Response**

The Board is directed to the original Planner's Report as it is considered that the grounds of appeal do not raise any new matters which would justify a change in attitude to the proposed development.

## **6.4. Observations**

None.

## **7.0 Assessment**

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed.

The issues can be dealt with under the following headings:

- Boundary wall.
- Design.
- Residential Amenity.
- Other Issues.
- Appropriate Assessment.

## 7.1 Boundary Wall

- 7.1.1 The presence of a granite seam, the issue of rock excavation and its impact on the structural stability of adjacent structures and the boundary wall has been raised in the previous application for the development of sites along the western side of The Park development. **Planning Authority Ref. D04A/1450. ABP Ref. PL.06D.213279**, refers to a grant of permission for 2 no. semi-detached houses at No. 10 Sycamore Close which bounded the walled garden of Claremount House. At the time reference was made in a submission to an extension at No. 6 Sycamore Green which was built without requiring the use of a rock breaker on the weathered granite. The Inspector noted that on the related issues of ground conditions and the boundary wall, the Planning Authority was satisfied that the information supplied dealt adequately with these issues. These houses have been constructed and are occupied. In my view, the context of the current application differs from the above in that the westernmost house was conditioned to be set back 3 metres from the boundary and the retaining wall set back 1.5 metres from the western boundary. Similar set backs are not proposed in the application before the Board.
- 7.1.2 The appellants have also raised concerns that the applicants have not adequately demonstrated that the proposed works will not have a detrimental impact on the structural integrity of the old stone wall, the adjoining houses in Claremount and the area of open space abutting the wall arising from land slippage.
- 7.1.3 This issue was the subject of further information and clarification of further information requests by the Planning Authority. A letter from an engineer and drawings submitted with the clarification of further information response addressed the concerns to the satisfaction of the Planning Authority. The grant of permission does not include any specific conditions relating to this matter with the exception condition no. 1 which refers to plans and particulars submitted with the application. In addition, I note that there is no Method Statement for the removal of the retaining wall and material from site included with the application and there are inconsistencies in the drawings and details for the new retaining wall submitted to the Planning Authority.

7.1.4 The appellants have included an engineer's report with the appeal documentation which offers a critique of the information submitted with the application. Discrepancies in the drawings submitted with the application are also highlighted. The report notes that the proposal would include the breaking of the rock ledge which at present is covered by a stepped terrace on the western side of Sycamore Walk, but proposes to retain the ground at the highest level (Claremount) on which the stone boundary wall is built. The proposed retaining wall, which would be built up to the stone wall, would in effect be an extension of this wall. Concerns are raised that this would undermine the integrity of the foundation of the existing wall, leading to collapse and landslip, thus eroding the green and threatening the formation level and foundation at No. 14 Claremount. The report concludes that the ground conditions are more than likely solid rock, however, no site investigations were carried out.

7.1.5 In this instance I concur with the appellants that the information submitted does not adequately address the concerns raised on numerous occasions by the Planning Authority regarding the presence of granite and the implications this has for the removal of the existing retaining wall and significant amounts of material from the site. Based on the information on file, I am not satisfied that the applicants have clearly demonstrated that the required site works would not undermine the integrity of the foundation of the existing stone wall and give rise to the possibility of land slippage which could erode the green at Claremount. There could also be a possible impact on the structural integrity of adjoining properties. In the circumstances, I consider that a grant of permission would be contrary to the proper planning and sustainable development of the area.

## **7.2 Design**

7.2.1 Section 8.2.3.4 (v) refers to the development of corner/side garden sites and sets out a range of criteria to be complied with including having regard to the size, design, layout and relationship with adjacent dwellings.

7.2.2 Sycamore Walk is a mature suburban area in Cabinteely built c.1980s. The immediate area is characterised by gable fronted single storey detached

houses. A number of the houses have been altered and extended over the years but have retained the roof profiles. The two semi-detached houses proposed would provide first floor accommodation with a roof profile consisting of a gabled roof with large dormer projection to the side roof slopes. In my view, the proposed roof profile and large dormer elements would jar with the existing pattern of development and result in a discordant feature on the streetscape and set an undesirable precedent for further similar developments. The proposed development would, therefore, detract from the existing pattern of development in the area and be contrary to section 8.2.3.4 (v) of the Dun Laoghaire- Rathdown County Development Plan 2016-2022.

7.2.3 The applicant has referred to a grant of permission for a dormer extension to the existing house in 2007 which was not constructed. The issue of precedent does not arise as the context differs from the current proposal which is for two semi-detached houses where the scale and mass of the proposed development would be visually incongruous.

### **7.3 Residential Amenity.**

7.3.1 The appellants have raised concerns that the proposal would result in the loss of sea views from the public open space and the houses within the Claremount development which would detract from their residential amenities. The view across the application site towards the sea is not listed as a protected view in the Development Plan and the proposal is not considered to be overbearing or visually obtrusive when viewed from Claremount development which is elevated c. 3 metres above the adjoining developments at Sycamore Walk.

7.3.2 I note that a side passage proposed along the western boundary, off which the hall door is located results in a cramped haphazard form of development with substandard means of access to the units for future residents of the western house (labelled 5A on the plans). In my view the scale of the proposal and its siting in respect of proximity to boundaries would jar with the existing pattern of development and result in a discordant feature on the streetscape and set an undesirable precedent for further similar developments.

7.3.3 Having inspected the appeal site and the surrounding area and having regard to the character and pattern of development in the area, it is my considered opinion that the overall design, scale and mass of the proposed two semi-detached houses does not have adequate regard to the existing pattern of development in the area and the residential amenities of future occupiers.

7.3.4 Overlooking is not an issue and proposed private amenity space complies with Development Plan standards.

#### **7.4 Other Issues**

7.4.1 The appellants have requested that in the event that the Board decides to grant permission that an occupancy condition be attached to the houses. There is no policy in the Development Plan to attached occupancy conditions to houses on zoned lands. This is reserved for proposals in rural areas.

7.4.2 The appellant has also raised concerns that the development would not comply with the Building Regulations. This is beyond the remit of the current report, however, it is noted that all new buildings are required to comply with the Building Regulations and the relevant standards set out in same.

#### **7.5 Appropriate Assessment.**

Having regard to nature and small scale of the development and the location of the site in a fully serviced built up area, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

**8.1** I recommend that planning permission should be refused for the reasons and considerations as set out below.

## **9.0 Reasons and Considerations**

1. On the basis of the information submitted with the application and the appeal, the Board is not satisfied that the developer has adequately demonstrated that the ground works required to facilitate the development, involving significant excavation and retaining structures to the site boundary, would not have a detrimental impact on the structural stability of adjoining structures and property. The proposed development would, therefore, seriously injure the amenities of property in the area and be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed two semi-detached houses, by virtue of their design, scale and mass would constitute a substandard form of development that would be overly dominant and visually incongruous and would be at variance with the predominant pattern of development in the area. The proposed development would, therefore, detract from the existing pattern of development in the area and be contrary to section 8.2.3.4 (v) of the Dun Laoghaire- Rathdown County Development Plan 2016-2022 and would set an undesirable precedent for further such developments in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Dáire McDevitt  
Planning Inspector

13<sup>th</sup> September 2017