



An  
Bord  
Pleanála

## Inspector's Report PL29S.249031

---

<b>Development</b>	Construction of a dwelling contiguous to existing dwelling in side garden.
<b>Location</b>	1 Raleigh Square and fronting Old County Road, Dublin 12.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	2963/17.
<b>Applicants</b>	Gerard O'Dowd and Olive Marshall.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party -v- Refusal.
<b>Appellants</b>	Gerard O'Dowd and Olive Marshall.
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	16 <sup>th</sup> October, 2017.
<b>Inspector</b>	Paul Caprani.

## Contents

1.0 Introduction .....	3
2.0 Site Location and Description .....	3
3.0 Proposed Development .....	3
4.0 Planning Authority's Decision .....	4
4.1. Planning Authority Assessment.....	5
5.0 Planning History.....	5
6.0 Grounds of Appeal.....	6
6.1. Appeal Response.....	7
7.0 Development Plan Provision.....	7
8.0 Planning Assessment .....	8
9.0 Conclusions and Recommendation .....	11
10.0 Appropriate Assessment .....	11
11.0 Decision .....	11
12.0 Reasons and Considerations .....	11
13.0 Conditions .....	12

## 1.0 Introduction

PL29S.249031 relates to a first party appeal against the decision of Dublin City Council to issue notification to refuse planning permission for the construction of a house contiguous to the side of an existing dwelling in a residential area to the south of the Crumlin Road in Dublin 12. Permission was refused for two reasons stating that the proposed development would be unacceptably cramped and visually obtrusive and the rear garden would represent a substandard form of development and would not comply with the minimum standards set out in the development plan.

## 2.0 Site Location and Description

The appeal site is located on the Old County Road a road that runs to the south and roughly parallel to the Crumlin Road in Dublin 12. The site is located approximately 4½ kilometres to the south-west of Dublin City Centre. The site occupies a side garden of No. 1 Raleigh Square. The northern boundary of the site bounds the Old County Road whereas the western boundary of the site forms the corner of Raleigh Square and the Old County Road. The eastern boundary (rear) boundary of the site backs onto an existing infill residential unit No. 1A while the southern boundary of the site forms a common boundary with the original dwellinghouse which occupied the site, No. 1 Raleigh Square. The subject site occupies an area of approximately 160 square metres. In conjunction with the existing dwellinghouse on site the total area is stated in the planning application form as being 397 square metres. The site has an average depth of approximately 23 metres and an average width of 9 metres. It currently accommodates a garage and single-storey side extension to the existing semi-detached houses at No. 1 Raleigh Square. Raleigh Square is characterised by a two-storey semi-detached dwelling with red clay roofing tiles.

## 3.0 Proposed Development

Planning permission is sought for the demolition of the existing garage and single-storey extension to the side of No. 1 Raleigh Square and the construction of a new dwellinghouse attached to No. 1 Raleigh Square in order to create a row of three

terraced houses at the junction of the Old County Road and Raleigh Square. The proposed two-storey dwellinghouse is to incorporate the same ridgeline and roof profile as the contiguous house to the south. It is also to incorporate a single-storey rear return which is positioned at a slight angle to the main dwelling. At ground floor level it is proposed to accommodate living accommodation with a bedroom to the rear. At first floor it is proposed to accommodate two bedrooms, one en-suite and a bathroom. It is also proposed to incorporate an attic room and store area within the roof pitch. The attic room will be served by a dormer window which will be incorporated into the hipped roof facing northwards onto the Old County Road. A new vehicular entrance is proposed at the junction of the Old County Road and Raleigh Square. The drawings submitted indicate that the private open space to the rear amounts to 45.7 square metres. The residual private open space to the rear of No. 1 Raleigh Square will be reduced to 63.1 square metres.

#### **4.0 Planning Authority's Decision**

Dublin City Council issued notification to refuse planning permission on the 13<sup>th</sup> July, 2017 for the following two reasons which are set out in full.

1. Having regard to the location of the proposal and the configuration of the site with respect to its proximity to site boundaries, one of which is a public street, (Old County Road) and the pattern of development in the immediate area, it is considered that by reason of its footprint, scale and design the proposed development would be unacceptably cramped, visually obtrusive and overbearing at this location and would therefore seriously injure the residential and visual amenities of the area and property in the vicinity and would be contrary to the proper planning and sustainable development of the area.
2. It is considered that the limited size of the rear garden would represent a substandard form of development as it falls below the accepted open space requirement for a new residential dwelling outside the canal area and as such would be inconsistent with the proper planning and sustainable development of the area. As such the proposed development is contrary to Section 16.10.9 corner sites/side garden sites of the Dublin City Development Plan 2016 – 2022.

#### **4.1. Planning Authority Assessment**

- 4.1.1. A report from the Engineering Department states that there is no objection to the proposed development subject to the developer complying with the Greater Dublin Regional Code of Practice for Drainage Works.
- 4.1.2. A report from the Roads Streets and Traffic Department notes that the vehicular access to the property will be provided via an existing entrance from the Old County Road/Raleigh Square. It states that the division has no objection to the proposed development subject to a number of standard conditions. The planning report notes that the materials proposed are in keeping with the existing houses on Raleigh Square. Concern however is expressed that there is no setback in building line on the Old County Road. Concern is also expressed that the proposal incorporates a dormer window at roof level which highlights the three-storey nature of the development given the strong vertical alignment of three windows from roof to ground. It is noted that the semi-detached nature of No. 1 Raleigh Square will become a terraced unit and this is out of keeping with the established pattern of development in the area. Concern is also expressed that the building line has been compromised on the Old County Road. Concern is also expressed that the private open space to the rear of the dwelling would be below that permitted in the standards set out in the development plan. Having regard to the above issues it is considered that the proposed development is contrary to the proper planning and sustainable development of the area.

#### **5.0 Planning History**

No planning history details are contained on file other than a social housing exemption certificate for No. 1 Raleigh Square under application number 0175/17. The planner's report however makes reference to a number of relevant cases. These are briefly set out below.

The planner's report states in 1999 permission was granted for a two-storey detached dwellings with access from the Old County Road at the site adjoining the side/rear of 1 Raleigh Square (1A Raleigh Square to the rear of the site).

Under Reg. Ref. 5317/03 permission was refused for a change of use from domestic to office use at No. 1A Raleigh Square.

Under 1200/01 permission was refused for a change of use from domestic dwelling to offices at an existing dwelling at Enterprise House, Old County Road, Dublin 12.

Permission for No. 1A Raleigh Square was granted under Reg. Ref. 1348/99.

## 6.0 Grounds of Appeal

The decision of Dublin City Council to issue notification to refuse planning permission was appealed by the applicants' architect and the grounds of appeal are outlined below.

It is argued that the proximity of the proposed development to site boundary does not pose a problem and attached drawings were submitted with the grounds of appeal illustrating that the proposed development would have a positive impact on the neighbourhood by way of a greater sense of enclosure and streetscape and the resultant increase in passive surveillance.

The applicant has also followed the design of the existing adjacent housing in terms of scale, materials and detail which exist along Raleigh Square. In this context it is deemed entirely appropriate that the building line comes close to the Old County Road which will add visual interest to the streetscape.

In relation to private open space provision it is stated that the development plan recommends private open space of 60 to 70 square metres. The design in this instance incorporates 63.1 square metres for the old house and 45.7 for the new house. This represents 105 and 76% respectively of the minimum recommended private open space. Should the Board see fit this percentage could be redistributed in a different proportion. Notwithstanding this it is contended that the proposal represents no contravention of the underlying land use objectives. Furthermore, the development plan states that the Planning Authority will have regard to a number of criteria in respect of corner/side garden sites and it is argued that the street character is enhanced by the provision of this house by reason of a greater sense of enclosure and passive surveillance. The proposal also respects the scale, materials and detail of existing houses. There is no material impact on adjacent dwellings by

way of overlooking or overshadowing and it complies with parking facility and incorporates appropriate landscape and boundary treatments. In conclusion therefore it is argued that the proposal represents no interruption to existing residential amenity and is in general keeping with the strong architectural character of adjacent houses. The assessment by Dublin City Council represents a subjective opinion and it is requested that the Board take a more enlightened and informed view in relation to the design.

## **6.1. Appeal Response**

- 6.1.1. A response was received by the Planning Authority. It states the reasoning on which the Planning Authority's decision on this application was based is set out in the planning report and it is not proposed to respond in detail to the grounds of appeal as the planning report in the opinion of the Planning Authority deals fully with all issues raised and justifies its decision. Furthermore, it is stated that the photographic examples are not directly comparable as all cases are site specific and must be considered on their individual merits. It is stated that the site specific circumstances cannot accommodate a dwelling with an adequate degree of residential amenity which integrates and does not detract from the streetscape. An Bord Pleanála are therefore requested to uphold the decision of Dublin City Council.

## **7.0 Development Plan Provision**

- 7.1. The subject site is zoned Z1 "to protect, provide and improve residential amenities".
- 7.2. Section 16.10.9 specifically relates to the development on corner/side garden sites. It states that the development of a dwelling or dwellings in the side garden of an existing house is a means of making the most efficient use of serviced residential lands. Such developments, when undertaken on suitable sites and to a high standard of design, can constitute valuable additions to the residential building stock of an area and will generally be allowed for by the Planning Authority on suitable large sites. However, some corner/side garden sites are restricted to the extent that they would be more suitable for extending an existing home into a larger family home rather than creating a poor quality independent dwelling which may also compromise the quality of the original house.

- 7.3. The Planning Authority will have regard to the following criteria in assessing proposals for the development of corner/side garden sites.
- The character of the street.
  - Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings.
  - Impact on the residential amenities of adjoining sites.
  - Open space standards and refuse standards for both existing and proposed dwellings.
  - The provision of appropriate car parking facilities, and a safe means of access and egress from the site.
  - The provision of landscaping and boundary treatments which are in keeping with other properties in the area.
  - The maintenance of the front and side building lines where appropriate.
- 7.4. In terms of private open space, the development plan notes that private open space for houses is usually provided by way of private gardens to the rear or side of a dwelling. Generally, up to 60 to 70 square metres of rear garden area is considered sufficient for houses in the city. In relation to proposals for houses within the inner city a standard of 5 to 8 square metres of private open space per bedspace will normally be applied.

## 8.0 Planning Assessment

I have read the entire contents of the file, visited the site in question, have had particular regard to the reasons of refusal cited by the Planning Authority and I consider the critical issues in determining the current application and appeal before the Board are as follows:

- Design Issues
- Private Open Space Provision
- Impact on Residential Amenity



## 8.1. Design Issues

- 8.1.1. I would agree with the arguments put forward in the grounds of appeal that the proposed dwellinghouse in this instance appropriately reflects the scale and design of the existing dwellinghouses on Raleigh Square. The proposed dwellinghouse incorporates and reflects the style of the existing dwellinghouses on site in terms of roof profile arrangements, overall height and width together with fenestration and cladding arrangements. The proposal results in an overall form in terms of three dwellings which are proportionate, balanced and symmetrical. In this regard I do not consider that the design looks incongruous or inappropriate in the context of the existing dwellinghouses in the area. As such, I do not consider that the proposed development will adversely impact on the character of the area.
- 8.1.2. The Planning Authority also express concern that the proposed development will result in a terracing effect along Raleigh Square. I note that further south along the Square there have been a number of infill developments which have resulted in a terrace of three dwellinghouses facing onto the road. I consider a precedent has been set in this regard.
- 8.1.3. The planning report expresses concerns that the northern gable of the proposed dwelling would be contiguous to the Old County Road and will have a significant and material impact on the building line. Again I would refer to the dwellinghouses in the vicinity of the site facing onto the Old County Road and the Board will note that there is no uniform building line along this section of the road. Furthermore, I would agree with the architect's view that the proposed dwellinghouse would create a sense of enclosure at the junction of the Old County Road and Raleigh Square and this would be appropriate in urban design terms.
- 8.1.4. Therefore, in overall design terms I do not consider that the proposed development would look incongruous or would adversely impact on the character of the wider area.

## 8.2. Private Open Space Provision

- 8.2.1. The second reason for refusal cited by the Planning Authority argues that the limited size of the rear garden would represent a substandard form of development as it falls below the open space requirements for new residential dwellings set out in the development plan. The development plan states that generally new dwellings should

have private open space in the form of rear garden ranging in size from 60 to 70 metres. The proposed development in this instance would result in a residual garden space at No. 1 of 63.1 square metres which confirms with the minimum standards set out in the development plan. However, in the case of the proposed development the residual rear garden space would amount to just over 45 square metres. The applicants suggest that should An Bord Pleanála see fit that the rear garden open space could be redistributed between the dwellings. Any changes in the rear boundary could result in a redistribution of open space whereby neither dwellinghouse meets the minimum standards.

- 8.2.2. It is obvious that the proposed dwellinghouse fails to meet the private open space standards to the rear of the dwelling as specified in the development plan. Notwithstanding this fact the proposal does incorporate 45 square metres of private open space to the rear which in itself provides a usable and functional amenity space for the future occupants of any dwelling. Any shortfall in private open space provision (in this case the proposal is 14 square metres short of the minimum standards) must be balanced against the wider objectives of the development plan in relation to housing provision. This includes the promotion of residential development at sustainable urban densities throughout the city in accordance with the core strategy (QH7) and to promote residential development addressing any shortfall in housing provision through active land management and a co-ordinated planned approach to developing appropriately zoned land at key locations (QH5). Based on the wider principles of development housing at sustainable densities within and close to the city centre I consider that an argument could be made to grant planning permission for the proposed development notwithstanding the fact that the private open space provision to the rear of the building line falls short of the minimum standards set out in the development plan. The rear garden in this instance is almost 9 metres long and c.4 metres wide. In my view this represents an amenity space of appropriate dimensions to ensure that it provides an adequate level of amenity for future occupants.

### 8.3. Residential Amenity Issues

The layout, configuration and orientation of the building ensures that the proposal will not give rise to any significant issues in terms of overlooking or overshadowing. The incorporation of a dormer window at second floor level directly overlooks the public

street as opposed to any adjoining private open space. Furthermore, I am satisfied that the new dwellinghouse with a floor area of over 100 square metres is of sufficient size to provide good quality living space for future occupants.

## **9.0 Conclusions and Recommendation**

Arising from my assessment above therefore I consider that the Board should overturn the decision of the planning authority in this instance and grant planning permission for the proposed dwellinghouse on the grounds that the proposal is of a suitable design and the overall layout is such that it will not adversely impact on the character of the area or residential amenities in the vicinity.

## **10.0 Appropriate Assessment**

Having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to the nearest European site no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or on combination with other plans or projects on a European site.

## **11.0 Decision**

Grant planning permission in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

## **12.0 Reasons and Considerations**

Having regard to the Z1 land use zoning objective for the site it is considered that the proposed development, subject to conditions set out below, would not seriously injure the amenities of the area or property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

## 13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Details of materials, colours and textures of all external finishes to the proposed dwellings shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interest of visual amenity.

3. Water supply and drainage arrangements, including the [attenuation and] disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

4. Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interest of pedestrian safety.

5. The requirements of the Roads, Streets and Traffic Department, Road Planning Division of Dublin City Council shall be the subject of written agreement prior to the commencement of development.

**Reason:** In the interest of traffic safety.

6. Screen walls should be provided along the side and rear boundaries of the site. Such walls should be 2 metres in height above ground level. Screen walls should be constructed to match the materials used on the adjoining dwelling at No. 1 Raleigh Square. Details of the layout, materials and external finishes of all the screen walls shall be submitted to and agreed in writing with the planning authority prior to the construction of the dwelling.

**Reason:** In the interest of residential and visual amenity.

7. Site development work and building work shall be carried out only between the hours of 0800 hours to 1900 hours Mondays to Friday inclusive and between 0800 hours to 1400 hours on Saturdays and not at all on Sundays or Public Holidays. Deviations from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of properties in the vicinity.

8. The construction of the dwelling shall be managed in accordance with a Construction Management Plan which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. This plan shall provide details of intended construction practice for development, including hours of working, noise management measures and off-site disposal of construction and demolition waste.

**Reason:** In the interest of public safety and residential amenity.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the

application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

---

Paul Caprani,  
Senior Planning Inspector.

October, 2017.