



An  
Bord  
Pleanála

## Inspector's Report ABP-300699-18

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<b>Development</b>	Demolition of house, construction of house, landscaping, parking for 3 cars, new entrance walls, piers and gates to existing entrance, removal of septic tank and installation of a new proprietary waste water treatment unit.
<b>Location</b>	'Ormond', 26 Scholarstown Road, Dublin 16
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD17A/0387
<b>Applicant(s)</b>	John Burke
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	John Burke
<b>Observer(s)</b>	(1) Jim & Regina Dunne. (2) John Taylor & Denise Begley

**Date of Site Inspection**

19<sup>th</sup> April 2018

**Inspector**

Colin McBride

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## **1.0 Site Location and Description**

- 1.1. The appeal site, which has a stated area of 0.125 hectares, is accessed off the Scholarstown Road in South County Dublin. The site is roughly rectangular in shape sloping away from the road towards the rear boundary. It is bounded by a large two-storey dwelling to the east (Woodbury) the building line of which is forward of the dwelling on the appeal site with windows at first floor level overlooking same. The shared boundary is delineated by a hedge to the front and side with timber fencing along the remainder to the rear, A two-storey dwelling which has been extended to the rear, bounds the site to the north-west, the site of which would originally have formed part of the rear garden of Trouville. The sites' western boundary to these two dwellings is delineated by wire fencing and mature hedging and trees, Boden Park estate bounds the site to the north which comprises of two-storey, semi-detached dwellings.
- 1.2. Scholarstown Road along the site frontage has not been improved and provides for a footpath on one side. The lands immediately opposite the site are currently being developed for residential purposes.

## **2.0 Proposed Development**

- 2.1. Permission is sought for of an existing two-storey dwelling and single-storey detached garage and the construction of a replacement two-storey detached dwelling and attic room. The proposal includes a new landscaped front garden with space for parking 3 cars. The proposal entails removal of the existing on-site septic tank and installation of a new proprietary wastewater treatment system and a new surface water soakaway.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission refused based on one reason.

1. The site is zoned RES 'to protect and/or improve residential amenity'. By reason of its scale, bulk and massing, the proposed development would give rise to an overbearing appearance and be visually obtrusive when viewed from other properties. The proposed development would, therefore, seriously injure the amenities of property in the vicinity (both visual and residential amenities) and would be contrary to the 'RES' zoning objective for the area as set out in South Dublin County development Plan 2016-2022. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.

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

#### 3.2.1. Planning Reports

Planning report (12/12/17): Proposal was considered to be excessive in scale and detrimental to the visual and residential amenities of the area. Refusal recommended subject to the reason outlined above.

#### 3.2.2. Other Technical Reports

SEO (17/11/17): No objection subject to conditions.

Water Services (29/11/17): No objection subject to conditions.

Irish Water (05/12/17): No objection.

### 3.3. **Prescribed Bodies**

No submissions.

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

Two third party submissions, the issues raised are as follows...

- Footprint similar to previous proposal refused, bulk and scale, overshadowing, overlooking, inaccurate boundary, inadequate drainage details and lack of contextual drawings.

## 4.0 Planning History

PL06S.248130: Permission refused for demolition of existing dwelling and construction of a replacement three-storey dwelling. Refused based on two reasons.

*1. The proposed development would seriously injure the residential amenities of adjoining property by reason of overlooking and loss of privacy from the proposed ground floor decking/terrace and the 1st floor terrace to the rear elevation and would, therefore, contravene materially the RES zoning objective for the area as set out in the South Dublin County Council Development Plan 2016-2022, which seeks to protect and/or improve residential amenity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

*2. It is considered that the proposed dwelling, by reason of its size, scale, bulk and massing, would give rise to an overbearing appearance and would be visually obtrusive when viewed from adjoining properties. The proposed development would, therefore, seriously injure the visual and residential amenities of property in the vicinity and would be contrary to the RES zoning objective for the area as set out in the South Dublin County Council Development Plan 2016-2022. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

SD14A/0039: Permission granted for demolition of existing dwelling and construction of a new two-storey dwelling on the adjacent site to the east.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant plan is the South Dublin County development Plan 2016-2022. The appeal site is zoned 'RES', with a stated objective 'to protect and/or improve residential amenity'.

H17 Objective 5 – to ensure that new development in established areas does not impact negatively on the amenities or character of the area.

H17 Objective 7 – to support and facilitate the replacement of existing dwellings with one or more replacement dwellings, subject to the protection of existing residential amenities and the preservation of the established character (including historic character and visual setting) of the area.

### 5.2. Natural Heritage Designations

None in the vicinity

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first party appeal has been lodged by John Burke, Ormonde, Scholarstown Road, Knocklyon, Dublin 14.

- The proposal is a significant alteration over the previous proposal on site refused on appeal under ref no. PL06S.248130 with a reduced floor area, ridge height and removal of a basement level.
- The appellant notes the planning history in the vicinity and in particular the demolition of a dwelling immediately to the east and the construction of new

dwelling. The appellant notes that the Planning Authority's approach to the current proposal and the proposal on the adjoining site is inconsistent.

- The proposed dwelling would have no overlooking windows in its gables, which is an improvement over the existing arrangement on site.
- The proposal is consistent with the established building line, has a ridge height marginally higher than the existing dwelling and similar to the adjoining dwelling to the east, and is on a large site capable of accommodating such. The proposal would have no adverse impact on the visual amenities of the area.
- The proposal is in keeping with the pattern of development of the area, is compliant with Development Plan policy and would be satisfactory in the context of the visual amenities and residential amenities of the area.

## **6.2. Planning Authority Response**

Response from South Dublin County Council.

- The Planning Authority confirm its decisions and note that all issues have been covered in the Planning report.

## **6.3. Observations**

6.3.1 Observation received from Jim & Regina Dunne, 'Woodbury' Scholarstown Road, Dublin 14.

- The footprint of the proposal has not changed and is essentially the same as the previous proposal refused on site.
- The issues raised in the submission during application stage are reiterated including concerns regarding proposed levels and building line in relation to vehicle access.
- It is considered that the proposal has the same impact as that previously refused and would be overbearing and obtrusive.



6.3.2 Observation received from John Taylor & Trouville, Scholarstown Road, Rathfarnham, Dublin 16.

- The planning history on the site is noted with proposal refused previously. It is noted that the current proposal should also be refused.
- It is noted that the proposal is not significantly different from the previous proposal refused on site with the main reduction in floor area accounted for by omission of a basement level.
- The proposal does not conform to existing building line with the new dwelling brought forward.
- Drainage and construction waste details are inadequate. The proposal for a block wall boundary along the boundary with the observers' property would be unacceptable and impact adversely on visual and residential amenity.

## 7.0 Assessment

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Principle of the proposed development

Design, scale, visual and residential amenity

Drainage

Traffic/parking layout

Appropriate Assessment screening

7.2. Principle of the proposed development:

7.2.1 The proposal entails demolition of an existing two-storey dwelling and construction of a new dwelling which is described as a two-storeys with a room at attic level. The site is zoned 'RES', with a stated objective 'to protect and/or improve residential amenity'. The principle of a replacement dwelling is supported by H17 Objective 7

subject to the protection of existing amenities and the preservation of the established character of the area. Such is reiterated under H17 Objective 5 which seeks to ensure that new development in established areas does not impact negatively on the amenities of character of the area. The existing dwelling is not a protected structure or of significant architectural heritage value and the principle of its demolition and replacement with a new dwelling is acceptable subject to it having adequate regard to the visual and residential amenities of the area.

### 7.3 Design, scale, visual and residential amenity:

7.3.1 The proposal entails demolition of an existing dwelling and construction of a new dwelling on site. The new dwelling is significantly larger in floor area with an increased footprint and ridge height over the existing dwelling on site. There is planning history on the site with a refusal under PL06S.248130 for replacement dwelling. The applicant/appellant notes that the current proposal addressed the reason for refusal, while the observers' note that the current proposal is not changed significantly from that refused to merit a different outcome in this case.

7.3.2 The proposal is three-storeys with the second floor level in the roof space. The overall ridge height is 8.998m, with the ground floor level of the site reduced by 0.43m. When viewed from the surrounding area the dwelling appears to be a two-storey dwelling. The ridge height of the proposed dwelling is approximately 0.6m higher than the existing dwelling on the site and is similar in ridge height to the existing dwelling on the site immediately to the east (Woodbury). Existing front boundary treatment, which is to be retained also screens the dwelling from the public road. I would be satisfied that the visual impact of the proposed development in the wider area would be satisfactory and would not impinge on the visual amenities of such.

7.3.3 The existing dwelling on site has a similar front building line to the existing dwelling to the west (Trouville) and is set back further from the road than the dwelling to the

east (Woodbury, which is a more recently constructed dwelling). The new dwelling on site has a significantly larger footprint than the existing dwelling meaning a building line further forward and further back than the existing dwelling. The front building line projects forward of the existing dwelling to the west but is still set back significantly further than the dwelling to the east. I would consider that the new front building line of the dwelling is satisfactory and takes account of the existing pattern of development and the alignment of the road giving an even setback from the public road. The rear building line of the dwelling also appears to have regard to the pattern of development with the rear building line of the new dwelling not projecting beyond the rear building line of the adjoining dwelling to the west. The new dwelling steps down to single-storey portion to the rear where it adjoins the eastern boundary. The new dwelling does project beyond the rear building line of the existing dwelling to the west, however given the alignment of the road and the level of separation between the two, I would consider that the footprint and extent of the dwelling has adequate regard to the pattern of development on adjoining sites.

7.3.4 The physical scale of the proposed dwelling relative to adjoining dwellings does have adequate regard to the existing pattern of development. As noted above the proposed dwelling does not project beyond the rear building line of the dwelling to the east and also steps down to a single-storey portion along at the north eastern corner. The physical scale of the dwelling relative to the adjoining property would be satisfactory. The proposed dwelling is similar in scale to the existing dwelling on the site to the west. The proposed dwelling provides for an adequate level of separation from the boundary with adjoining property and the adjoining dwelling itself. I am satisfied that the physical scale, footprint and layout of the proposed dwelling would not be physically overbearing or have detrimental visual impact when viewed from adjoining properties.

7.3.5 The proposed dwelling has been altered in design from the previous proposal on site. The main changes are the removal of basement level and omission of a first floor terrace area on the roof of the single-storey portion to the rear. The orientation of most of the windows on the elevations are north and south and confined mainly to

the front and rear elevations in keeping with the established pattern of development in the area. There are windows on the side elevations with all window on the ground floor level unlikely to result in overlooking due to their level and existing and proposed boundary treatment. There are windows on each of side elevations at first floor level serving bathrooms in each case. I am satisfied that the extent of such windows are not significant and would should be fitted with obscure glazing by way of condition.

7.3.6 One of the main issues raised under the previous proposal was the provision of a first floor terrace area on the flat roof section to the rear and the potential for overlooking. There were also concerns regarding the level of the terrace area at ground floor level off the kitchen to the rear and its level relative to the property to the west and the potential for overlooking. The balcony area at first floor has been omitted and is not a concern. Although no access is proposed onto the flat roof section, I would recommend a condition be attached confirming no access is to be provided to such. The proposal does entail provision of a terrace area off the kitchen and such is a higher level than the garden area to the rear with steps down from it to the garden level. It is notable that the level of this terrace matches the finished floor level of the dwelling and is lower than the current ground floor level, due to the reduction in level being implemented on site. Having regard to such I am satisfied that the level of this terrace area would not impinge on the residential amenities of adjoining properties. The level of such taken in conjunction with the proposed and existing boundary treatment would prevent overlooking of adjoining properties. It is noted on file that the existing boundary treatment to the east and west of the site is to be retained. I am satisfied that maintaining existing boundary treatment would also protect the amenities of adjoining properties and that existing vegetation along the eastern boundary prevent any overlooking from the terrace area to the rear at ground floor level.

7.3.7 The overall scale, design and orientation of the proposed dwelling has adequate regard to the visual amenities of the area and residential amenities of adjoining

properties. The proposed development would be acceptable in the context of the proper planning and sustainable development of the area.

#### 7.4 Drainage:

7.4.1 The proposal entails removal of an existing septic tank system and its replacement with a proprietary wastewater treatment system. Details of site characterisation tests indicate that the percolation test values (P and T tests) are within the acceptable limits for operation of wastewater treatment system as set down under the EPA Code of Practice. The proposal entails replacement of an existing system on site and is likely to be a significant improvement over the existing septic tank on site, which is likely to have been in place for a significant period of time. I would consider that subject to a condition requiring installation and operation in compliance with the EPA Code of Practice, that the proposed development is acceptable in regards to public health.

7.4.2 The proposal includes on site drainage in the form of a soakaway. The Council's Water Services Section indicated no objection to the proposal. I am satisfied subject to appropriate conditions such as prevention of discharge of surface water outside of the site, the proposed would be satisfactory in regards to drainage.

#### 7.5 Traffic/parking layout:

7.5.1 The proposal entail no change to the entrance layout with it proposed to use the existing entrance onto the public road. The proposal is a replacement dwelling so does not entail an intensification of traffic over and above the existing dwelling. The appellant raises concerns about the gradient of the driveway due to the decreased finished floor level of the proposed dwelling. The appellant notes that the gradient is too steep and will necessitate alterations that would result in relocating the house further back to facilitate car parking and turning movements. The proposed layout provides for ample off-street car parking. I would note that the entrance and off-street parking layout as proposed are satisfactory in the context of the proper planning and sustainable development of the area. Whether the gradient of the driveway is problematic or not is not necessarily a planning consideration. The development as proposed is being considered on its merits and this aspect the proposal is

acceptable in such regard. If the proposal requires alterations such as relocation of the dwelling on site such would require permission and assessment on its merits if required. The proposal as submitted is satisfactory.

#### 7.6 Appropriate Assessment screening:

7.6.1 Having regard to the nature and scale of the proposed development and its 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 in combination with other plans or projects on a European site.

### 8.0 **Recommendation**

8.1. I recommend a grant of permission subject to the following conditions.

### 9.0 **Reasons and Considerations**

Having regard to the residential zoning objective for the area, to the pattern of development in the area and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable having regard to its design, would not seriously injure the visual or residential amenities of the area, would not contravene the policies or provisions of the current development plan for the area and would 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.

### 10.0 **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 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 the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. The windows on the eastern and western gable at first floor level shall be fitted with obscure glazing and shall be maintained permanently with such.

Reason: In the interest of residential amenity.

4. The flat roof area at first floor level shall not be accessible from first floor level and shall not be used as a terrace area or amenity space.

Reason: In the interest of residential amenity.

5. Site development and building works shall be carried out between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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 property in the vicinity.

6. 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.

7. The construction of the development 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 commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

8.

(a) The proposed wastewater treatment system shall be in accordance with the standards set out in the document entitled “Wastewater Treatment Manual – Treatment Systems for Single Houses” – Environmental Protection Agency (current edition).

(b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner.

Reason: In the interest of public health.

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, as amended. 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

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Colin McBride  
Planning Inspector

24<sup>th</sup> April 2018