



An
Bord
Pleanála

Inspector's Report ABP-303021-18

Development

Construction of a semi-detached, part 3 storey, part 2 storey, two bedroom dwelling house (122 sq. m gross floor area), with elevated courtyard garden, adjoining the side of the existing house; provision of a single parking space; widening of the existing vehicular access; construction of new boundary wall; and all associated site and boundary.

Location

No. 8, Rosmeen Gardens, Dun Laoghaire County Dublin.

Planning Authority

Dun Laoghaire Rathdown County Council.

Planning Authority Reg. Ref.

D18A/0832.

Applicant(s)

Joseph Duggan.

Type of Application

Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First Party.

Appellant(s)	Joseph Duggan.
Observer(s)	Declan Gibbons. Conor and Linda Blake.
Date of Site Inspection	02 February 2019.
Inspector	Stephen Rhys Thomas

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.143 hectares, is located to the south east of Dun Laoghaire and north of Glenageary. The site is located on the western side of Rosmeen Gardens leading to Granite Hall, which is a residential cul-de-sac. Rosmeen Gardens forms a junction with Summerhill Road to the north. Glenageary Road Lower is located to the rear of the overall property from which the appeal site is taken.
- 1.2. The appeal site comprises the side car parking area and a portion of the rear garden associated with 8 Rosmeen Gardens. The existing house on the overall property is a part two storey part three storey red brick semi-detached building. The gable end of this dwelling comprises coursed granite stone at ground floor level with red brick at first floor level. In common with other dwellings between 1 and 10 Rosmeen Gardens, the existing dwelling has some fine building details and forms part of a set piece of ten similar buildings all exhibiting subtly different detailing but overall similar in character.

2.0 Proposed Development

- 2.1. Permission is sought for a house in the side garden and comprises the following:
 - Semi-detached dwelling,
 - Part three and part two storey,
 - Elevated courtyard garden,
 - Existing vehicular entrance to be widened and a single car parking space provided.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for a single reason as follows:

It is considered that the proposed development, by reason of its 3-storey design and layout, would be visually prominent within a street comprised of distinctive

nineteenth/twentieth century 2-storey red brick dwellings. It is therefore considered that the proposed development would be contrary to the provisions of Policy AR8: Nineteenth and Twentieth Century Buildings, Estates and Features and Section 8.2.3.4 (v) Corner / Side Garden Sites in the Dún Laoghaire-Rathdown County Development Plan, 2016-2022. The proposed development would be visually discordant within the existing streetscape, would seriously harm the character of the immediate area and would set a poor precedent for future development. It is considered that the proposed development would seriously injure the amenities, or depreciate the value, of property in the vicinity and is therefore considered to be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The basis of the planning authority decision includes:

Presentation of the County Development Plan standards with regards to corner/side garden sites, nineteenth and twentieth century buildings, estates and features, and other relevant policies. Identification of the area of the site and that the proposed dwelling should be carefully considered given the context of the site. The design and scale of the building is not acceptable and has failed to adequately address the immediate context or streetscape. A small unit of a contemporary design may be more appropriate. Residential amenity is adequate, however, all private amenity space should be provided at ground floor level and none at roof terrace. The report includes an AA screening assessment that concludes no requirement for AA. There is no reference to a request for additional information and the recommendation was to refuse permission for a single reason.

3.2.2. Other Technical Reports

Transportation Planning – further information is requested with respect to vehicle movements and the constrained nature of the spaces proposed and other technical aspects to do with access and parking.

Drainage Planning – no objections subject to standard technical conditions.

3.3. **Prescribed Bodies**

Irish Water – no objections to the proposed development.

3.4. **Third Party Observations**

Three third party submissions were received by the planning authority and can be summarised as follows:

Conor and Linda Blake – the proposed design is out of character with existing dwellings and breaks the building line, parking is problematic in the area and the proposal would set an undesirable precedent.

Gareth Davis – outlines the historic context of the existing dwellings and is not satisfied that the proposed development is appropriate.

Declan Gibbons – the submission repeats concerns outlined above, in addition, the drawing accuracy and boundary treatment is queried, fire and drainage issues are raised and that the proposed house type is not designed for the elderly.

4.0 **Planning History**

Planning authority reference D94A/0524 – permission for a vehicular entrance.

5.0 **Policy Context**

5.1. **Development Plan**

Dun Laoghaire-Rathdown County Development Plan 2016-2022

The site is subject to Land Use Zoning objective 'A' To protect and/or improve residential amenity.

Chapter 8 of the development plan outlines principles of development the relevant policies and objectives include:

Section 8.2.3.4

(v) Corner/Side Garden Sites

Corner site development refers to sub-division of existing house curtilage and/or an appropriately zoned brownfield site to provide an additional dwelling in existing built up areas. In these cases the Planning Authority will have regard to the following parameters (Refer also to Section 8.2.3.4(vii)). The development goes on to outline a lengthy list of well considered design parameters

Section 8.2.3.4

(vii) Infill:

New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

This shall particularly apply to those areas that exemplify Victorian era to early-mid 20th century suburban 'Garden City' planned settings and estates that do not otherwise benefit from Architectural Conservation Area status or similar. (Refer also to Section 8.2.3.4 (v) corner/side garden sites for development parameters, Policy AR5, Section 6.1.3.5 and Policy AR8, Section 6.1.3.8).

Policy AR8: Nineteenth and Twentieth Century Buildings, Estates and Features

It is Council policy to:

- i. Encourage the appropriate development of exemplar nineteenth and twentieth century buildings and estates to ensure their character is not compromised.
- ii. Encourage the retention of features that contribute to the character of exemplar nineteenth and twentieth century buildings and estates such as roofscapes, boundary treatments and other features considered worthy of retention.

Section 2.1.3.4 Existing Housing Stock Density: "Encourage densification of the existing suburbs in order to help retain population levels – by 'infill housing'. Infill housing in existing suburbs should respect or complement the established dwelling type in terms of materials used, roof type, etc. In older residential suburbs, infill will be encouraged while still protecting the character of these areas."

5.2. Natural Heritage Designations

None relevant to this suburban site.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The proposed building will not be visually prominent. The existing street exhibits a number of different building styles and many additions and changes have occurred to buildings in the vicinity. Because the site is between two buildings, it is not visually prominent and cannot be readily viewed from either other parts of Rosmeen Gardens or to the rear from Glenageary Road Lower. The appeal is supported by photomontage images.
- The building accords with Policy AR8 in terms of its sympathetic design idiom and complies with the requirements set out in section 8.2.3.4 corner/side garden development. Number 8 is not an exemplar nineteenth or twentieth century building and in any case no works are proposed to it. None of 1-10 Rosmeen Gardens are listed as protected structures and the area is not an ACA. No changes are recommended to the rear elevation of 8 Rosmeen Gardens and consequently no impact on the Clarinda Park Architectural Conservation Area will result.

The design approach accords with the advice provided in the Architectural Heritage Guidelines, and avoids a pastiche design that tries to mimic existing development. The proposed house takes references from the existing houses, red brick, red brick hue render, similar scale and higher, though narrower in plan. The new house will appear as subsidiary and secondary to the existing dwelling.

Notwithstanding the preferred design approach, the appellant includes a revised front elevation design that mirrors the existing dwelling.

- The rationale contained in the planning authority's reason for refusal that the building line will be compromised and a precedent set is unclear, insofar as

the house has been designed to respect existing development as it stands. The existing character of Rosmeen Gardens is a number of different designs and building finishes, with opportunities for infill development.

- The appellant goes on to address other issues contained in the planning authority's report in relation to private open space, overlooking, car parking provision and car parking design. The appellant is willing to accept conditions in relation to private open space and overlooking, but contends that the over provision of car parking spaces is unnecessary given the location of the site close to public transport.

The appeal is supported by photomontage images, an auto-tracking diagram and a scaled front elevation that details an alternate design approach.

6.2. Planning Authority Response

The planning authority's response can be summarised as follows:

- The proposed changes are considered to be material changes to the originally submitted design and have not been made available to third parties that may be affected. It is considered that any new material such as this should form part of a new planning application and fresh assessment.
- The Board are requested to consider the planning report already submitted and uphold the decision to refuse permission.

6.3. Observations

Two observations have been made that reiterate concerns and issues already outlined, but can be summarised as follows:

- Conor and Linda Blake – the development is out of character with existing Edwardian styled houses, the site is narrow with limited road frontage and will create car parking problems in the area, the building line will be broken, if granted a poor precedent would set.

- Declan Gibbons – similar concerns are raised as above, in addition the proposal will be visually prominent and criticism is levelled at the proposed design in almost every respect. Issues remain with regard to private open space, access and car parking.

7.0 Assessment

7.1. 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:

- Visual Amenity.
- Residential Amenity.
- Parking and Traffic.
- Appropriate Assessment.

7.2. Visual Amenity

7.2.1. The appellant states that the proposed dwelling has been designed in accordance with policy AR8 of the development plan and has taken cognisance of national guidelines in relation to the architectural approach in proximity to older buildings. The appellant has challenged the planning authority's conclusion that the proposed development would adversely impact the visual amenities of the area and refutes the assertion that the proposal would be visually prominent.

7.2.2. The planning authority's single reason for refusal states that it is the three storey design that would be visually prominent and contrary to policy AR8 and corner/side garden site objectives. In addition, the planning authority reject the revised front elevation drawing submitted on appeal as third parties have not had a chance to assess the potential for impact to them and their properties.

7.2.3. The principal issue in this appeal is the acceptability of developing the side garden of 8 Rosmeen Gardens for a new dwelling. The architectural design and character of 1-10 Rosmeen Gardens is very pleasant as viewed from the street. The semi-detached

dwellings are attractive, well-built and produce a pleasing and coherent streetscape along one side of Rosmeen Gardens. The buildings appear identical at first glance through their red brick finish, however each individual grouping exhibits subtle and different finishes, especially at gable ends. The remainder of Rosmeen Gardens was developed at a later time period and so these other dwellings are set back further from the street edge, of a different design language and finished with render for the most part.

- 7.2.4. Firstly, I note that 1-10 Rosmeen Gardens are neither Protected Structures listed in the Development Plan, or included in any Architectural Conservation Area. Whilst being a significant grouping of dwellings with a coherent architectural style and building finish material, they are not protected for architectural heritage reasons. Policy AR8 of the development plan states that some urban and suburban areas contain groupings of nineteenth and twentieth century buildings that are recognised for their distinctive planned layout and collective interest. I agree that this is such a place and policy AR8 is a logical starting point when approaching the design of a building for the appeal site. The appellant has elected not to slavishly copy the architectural style of 1-10 Rosmeen Gardens and I am satisfied that this is the right response to the site. I note that the appellant has proposed an almost direct copy of the neighbouring dwellings and this is the wrong approach and should not be considered appropriate in any way.
- 7.2.5. The Architectural Heritage Protection Guidelines, aimed principally at listed protected structures and architectural conservation areas are relevant in this respect. I find that the appellant has proposed plans that are modern and completely different to existing development at 1-10 Rosmeen Gardens. This approach is satisfactory, however, I am concerned that the selection of a red brick finish and red brick hue render is confusing and that a completely different and contrasting building finish is what is required at this location. A light coloured brick and a render in the white or off white colour range may be appropriate.
- 7.2.6. The scale and massing of the proposed dwelling already sets the structure apart from neighbouring structures, but the building finishes proposed only serve to poorly camouflage the building and this not appropriate. I am satisfied that the design approach is satisfactory, but that the building finishes should avoid red brick and red

brick coloured render. An appropriate condition would address this aspect of the proposal.

- 7.2.7. Secondly, the building line of 1-10 Rosmeen Gardens is quite tightly formed, this is a result of substantial and imposing two storey front elevations, grouped closely together and relatively close to the street. The building line as it appears to the eye is further complicated by the two storey projecting bays of each dwelling and this produces an indented and broken building effect. I note that the gap between 8 and 9 Rosmeen Gardens is far larger than between other dwellings in this row. I am satisfied that the space between 8 and 9 Rosmeen Gardens is sufficient to accommodate a separate dwelling without adversely impacting on the rhythm of the existing building line. I note that the planning authority also consider that the principle of a separate dwelling unit is possible here, despite the observations of third parties. However, I am concerned that the drawings submitted show a slight stepping forward at first and second floor level, this is a minor detail but should be corrected so that the building line of the projecting bays is not broken.
- 7.2.8. The insertion of a compact three storey building at this point between 8 and 9 Rosmeen Gardens steps forward to meet the front of the two storey bays. The new structure should therefore appear as an ancillary and secondary building to existing dwellings. The compacted three storey height proposed and narrow plan successfully meets up with the two storey projecting bays. In my view this is a logical design approach that attempts to sympathise with existing structures whilst creating a modern design language at this location. The only downside in this approach is the insertion of a 1.35 metre high roof light projection that results in a cluttered roofscape. In my view, no development of this side garden should rise above the eaves of either 8 or 9 Rosmeen Gardens. Any significant projection such as the roof light proposed, would diminish the ancillary nature of the new building and should be omitted and replaced with a flush fitting structure to provide light needed below.
- 7.2.9. Given the foregoing, I am satisfied that the design approach to develop the side garden of 8 Rosmeen is broadly acceptable. The compacted three storey height as viewed from the street is coded as two storey by the fenestration pattern and the ancillary relationship to the main building on site and adjacent buildings is appropriate. The front building line is not severely impacted by the new dwelling as long as it meets up with the other two storey front bay projections. In my view, the

selection of red brick and red brick hue render is not appropriate, this should be replaced with alternative and contrasting brick colour and render finish. I am satisfied that the proposed development satisfactorily meets the provisions of Policy AR8: Nineteenth and Twentieth Century Buildings, Estates and Features and Section 8.2.3.4 (v) Corner / Side Garden Sites in the Dún Laoghaire-Rathdown County Development Plan, 2016-2022.

7.3. Residential Amenity

- 7.3.1. The planning authority have raised some minor concerns with regard to the residential amenity of existing and future residents. Primarily, concerns revolve around the quantum of private amenity space and the potential for overlooking from the second floor roof terrace and kitchen window at first floor.
- 7.3.2. Firstly, the appeal site is located close to the centre of Dun Laoghaire town centre, very close to the People's Park and proximate to public transport infrastructure, both bus and train. The availability of such amenities so close to the site should be viewed as a benefit. The provision of a mostly west facing ground floor garden, a roof garden/terrace and an internal courtyard atrium is satisfactory. I note that the planning authority have no strong opposition to the overall quantum of private amenity space but would prefer all private amenity space to be located at ground floor level to avoid the potential for overlooking. I do not have the same degree of concern. I am satisfied that both the quantum and arrangement of private amenity space is sufficient for the scale and design of the dwelling proposed. However, to ensure the satisfactory provision of private amenity space for future occupants, it is appropriate to restrict the exempted development rights ordinarily available to dwellings.
- 7.3.3. The second floor roof terrace is located to the back of the rear building line and would present no greater degree of overlooking than a window at the same level. I see no reason to exclude the roof garden at the second floor. I do note however, that it is difficult to determine what type of screen is proposed on the western elevation. For that reason, I recommend that the attachment of a 1.8 metre perforated timber screen would be appropriate.
- 7.3.4. Secondly, the planning authority are concerned that overlooking may occur from the first floor kitchen window. Again, as the rear building line is not broken by the

proposed dwelling, I anticipate no issues of overlooking of the rear garden associated with 8 Rosmeen Gardens. I note that a first floor bedroom window associated with 9 Rosmeen Gardens already overlooks rear gardens. In addition, there is no potential for overlooking from opposing first and second floor windows as any adjacent properties are located across a public road and greater than 22 metres away. Given no prospect of any overlooking, I recommend no changes to the rear elevation of the proposed dwelling with respect to windows or screened roof garden.

7.3.5. Given the foregoing, I am satisfied that residential amenities will not be compromised for existing residents or the future occupants of the proposed development, subject to minor design amendments.

7.4. Traffic and Parking

7.4.1. I note that third party observations have raised a concern that traffic and parking issues would result from the proposed development. I also note that the planning authority had some technical issues to correct with regard to access and egress from the site. The appellant has submitted an auto-tracking diagram that shows some sort of access arrangement can be achieved. I am not so concerned that the provision of an additional dwelling will lead to significant impacts upon car parking or traffic congestion in the area. The transportation planning report of the Council is satisfied that the required three car parking spaces can be provided subject to amendments. Given the town centre location of the site and access to public transport, I am not so concerned that three car parking spaces are appropriate or necessary. However, I am satisfied that a suitable technical solution has been reached to provide an acceptable quantum and format of in curtilage car parking.

7.5. Appropriate Assessment.

7.5.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment, 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 permission should be granted, subject to conditions as set out below.

9.0 Reasons and Considerations

Having regard to the nature, extent and design of the development proposed, to the general character and pattern of development in the area and to the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of property in the vicinity and would not be out of character with the area. 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 received by An Bord Pleanála on the 19 day of November, 2018, 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. The development shall be constructed as follows:

(a) No part of the front elevation shall break forward of the existing building line established by the two storey front bays of numbers 1 – 10 Rosmeen Gardens.

(b) The projecting roof light structure shall be omitted and replaced with a flush mounted roof light. No part of the proposed dwelling shall extend above the eaves of 8 Rosmeen Gardens, save for flues or soil vent pipes as necessary.

(c) A 1.8 metre perforated timber screen as measured from the finished floor level shall be erected to the rear/western elevation of the roof garden.

Reason: In the interest of visual and residential amenity.

3. The use of red brick and red brick hue render shall be omitted and replaced with a contrasting brick and colour render. 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.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall be erected within the rear garden area, without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the new dwelling.

5. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

6. The rear garden shall be bounded by block walls, 1.8 metres in height, capped, and rendered, on both sides, to the written satisfaction of the planning authority.

Reason: In the interest of residential amenity.

7. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation 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 property in the vicinity.

8. Water supply and drainage arrangements, including the 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.

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 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.

Stephen Rhys Thomas
Planning Inspector

04 February 2019