



An
Bord
Pleanála

Inspector's Report ABP-308255-20

Development	Construction of a detached, two-bedroom, single storey over basement dwelling with access from Sweetbriar Lane.
Location	Rear of 1 Woodley Park (junction of Woodley Park and Sweetbriar Lane), Kilmacud, Co. Dublin.
Planning Authority	Dun Laoghaire-Rathdown County Council.
Planning Authority Reg. Ref.	D20A/0471
Applicant(s)	Irene O'Brien and Mel Maclaine
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	Eucemia O'Leary and Others
Date of Site Inspection	14 th October 2020
Inspector	Paul O'Brien

1.0 Site Location and Description

- 1.1. The site comprises the northern section of garden of no. 1 Woodley Park, a two-storey semi-detached house located on the corner junction of Woodley Park (facing south) and Sweet Briar Lane to the side (east). The house has a large single-storey extension to the eastern side. The site area is stated as 0.0176 hectares.
- 1.2. Woodley Park is located to the south of the Lower Kilmacud Road/ R825. Access from the regional road to Woodley Park is from Sweet Briar Lane. The area is characterised by two-storey semi-detached houses though a number of detached infill houses are located throughout the area. Some of these infill units are of a contemporary design and a good example of this is located immediately to the north of the subject site, on the junction of the Lower Kilmacud Road and Sweet Briar Lane. This is a two-storey detached house with a monopitch roof built right onto the site boundary. There is an electricity substation located on the eastern side of the site/ western side of the public footpath.
- 1.3. The Lower Kilmacud Road is served by Dublin Bus route 11 which operates every 20 minutes off peak. The site is approximately 1.2 km to the east of the Balally Luas stop.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a detached house on the area of land to the north of the existing house on site. The proposed house to have a given floor area of 145 sq m with a ground floor over basement design. The house to have a pitched roof. A letter of consent from the owners of No. 1 Woodley Park has been included to allow the applicants to make this application.
- 2.2. Two bedrooms will be provided in the basement level with a home office and a courtyard area of 19.56 sq m. The ground floor to provide for living room, kitchen, hall and a garden of 45 sq m. The garden is to be located to the west of the house and will be 8.55 m long (north south axis) and 4.96 m deep (east west axis). A single car parking space is proposed, and which is accessible from Sweet Briar Lane.
- 2.3. The following documents were submitted in support of the application:

- Planning Report by Doyle Kent Planning Partnership Ltd.
- Site Specific Flood Risk Assessment by O'Reilly Design – Consulting Structural & Civil Engineers.
- Daylight & Sunlight Analysis by Digital Dimensions
- Design of Soakaway by Trinity Green Environmental Consultants.

3.0 **Planning Authority Decision**

3.1. **Decision**

The Planning Authority decided to grant permission subject to conditions. Conditions are generally standard though I note that Condition no. 3 removes exempted development rights as described in Class 1 and Class 2 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 as amended; Condition no. 5 refers to surface drainage requirements, Condition no.6 requires the relocation of an electricity substation at the applicant's expense and Condition no. 7 requires alterations/ works to the footpath to be undertaken at the applicant's expense.

3.2. **Planning Authority Reports**

3.2.1. **Planning Report**

The Planning report reflects the decision to grant permission for the proposed development. The Planning Authority Case Officer reports that the proposed development has overcome reasons for refusal in reference to previous application on this site. Adequate open space is provided to serve future occupants. The removal of exempted development rights is considered to be prudent having regard to the size of the house and site layout.

3.2.2. **Other Technical Reports**

Municipal Services Department – Drainage Planning: No objection to this development subject to conditions. A Site-Specific Flood Risk Assessment (SSFRA) was submitted with the application and the conclusions are accepted.

Transportation Planning: None received, though the Planning Authority Case Officer refers to a previous report – PA. Ref. D18A/0092, for a similar development on this site.

3.2.3. **Prescribed Bodies**

Irish Water: No objection subject to recommended condition.

3.2.4. **Objections/ Observations**

Letters of objection were received from E. O’Leary & M. O’Leary & B. MacManus of 168A Lower Kilmacud Road and from E. & M. Duffy of 3 Woodley Park.

Issues raised were similar to those of the appeal and include in summary:

- Concern about the height of the pitched roof and it could be internally modified to provide for additional habitable floor space/ use. This in turn could give rise to overlooking.
- The proposed house is out of character with the area, breaks an existing building line and the height is excessive for a single-storey house.
- An alternative would be to the remove the single-storey extension to the side of no. 1 Woodley Park and to build a similar house to that at the side of 168 Lower Kilmacud Road.
- Car parking is an issue in the area and the development may be negatively impacted by this as sight lines could be blocked by parked cars.
- Drainage, soakaway and flooding were all referred to as issues of concern.
- The proposed development may impact negatively on daylight/ sunlight received by existing houses in the area.
- Concern about the construction of this house, no geo-technical survey has been undertaken and existing houses/ boundary walls may be negatively impacted during the construction phase of development.
- Concern about the implications of relocating the electricity substation.
- Alterations to boundaries are not acceptable and note the difference in ground levels which may give rise to overlooking/ loss of privacy.

- Potential for the conversion of the basement study for use as a bedroom.

4.0 Planning History

P.A. Ref. D18A/0092/ ABP Ref. 302741-18 refers to a January 2019 decision to refuse permission for a similar development on this site consisting of a detached, house located to the rear of 1 Woodley Park, the construction of a new vehicular entrance and all associated site works. The reason for refusal referred to the inadequate provision of private amenity space in terms of quality and distribution of space. The 'Board considered that the development would not constitute overdevelopment of the site, and would not seriously injure the residential or visual amenities of the area'.

Also noted:

P.A. Ref. D03A/10919 refers to a January 2004 decision to grant permission for a two-storey detached house to the eastern side of no. 168 Lower Kilmacud Road; this is the site to the north of the subject site.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the subject site is zoned A, 'To protect and/ or improve residential amenity'. Residential development is listed within the 'Permitted in Principle' category of this zoning objective.
- 5.1.2. The Lower Kilmacud Road is designated for a 'Proposed Quality Bus/ Bus Priority Route'.
- 5.1.3. Chapter 2 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to 'Sustainable Communities Strategy' and the following are noted:

Section 2.1.1 Introduction:

'In accordance with National, Regional and local imperatives the majority of future population growth within the County needs to be accommodated in the Metropolitan

urban area. The growth of future households in Dun Laoghaire-Rathdown will be accommodated using two quite different models, namely:

- *Through the continuing promotion of additional infill accommodation in existing town and district centres at public transport nodes, brownfield sites and established residential areas.*
- *The creation of new residential/mixed-use sustainable communities at already identified greenfield growth nodes proximate to planned strategic public transport corridors’.*

Section 2.1.3.4 Policy RES4: Existing Housing Stock and Densification*. This section sets out the policy of the Council to improve/ protect existing housing stock and to encourage the densification of existing built-up areas. The following are noted as of relevance:

- *‘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’.*

5.1.4. Chapter 8 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to ‘Principles of Development’ and the following are relevant to the subject development:

8.2 ‘Development Management’ – with particular reference to section 8.2.3 ‘Residential Development’, 8.2.3.1 ‘Quality Residential Design’, 8.2.3.2 ‘Quantitative Standards’ and 8.2.3.4 ‘Additional Accommodation in Existing Built-up Areas’ – (v) ‘Corner/ Side Garden Sites’.

‘Corner site development refers to sub-division of an 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)):

- *Size, design, layout, relationship with existing dwelling and immediately adjacent properties.*
- *Impact on the amenities of neighbouring residents.*

- *Accommodation standards for occupiers.*
- *Development Plan standards for existing and proposed dwellings.*
- *Building lines followed where appropriate.*
- *Car parking for existing and proposed dwellings.*
- *Side/gable and rear access/maintenance space.*
- *Private open space for existing and proposed dwellings.*
- *Level of visual harmony, including external finishes and colours.*
- *Larger corner sites may allow more variation in design, but more compact detached proposals should more closely relate to adjacent dwellings. A modern design response may, however, be deemed more appropriate in certain areas in order to avoid a pastiche development.*
- *Side gable walls as side boundaries facing corners in estate roads are not considered acceptable. Appropriate boundary treatments should be provided both around the site and between the existing and proposed dwellings. Existing boundary treatments should be retained where possible.*
- *Use of first floor/apex windows on gables close to boundaries overlooking roads and open spaces for visual amenity and passive surveillance.*

It is also recognised that these sites may offer the potential for the development of elderly persons accommodation of more than one unit. This would allow the elderly to remain in their community in secure and safe accommodation. At the discretion of the Planning Authority there may be some relaxation in private open space and car parking standards for this type of proposal'.

In addition to the above, Section 8.2.3.4 (vii) 'Infill', Section 8.2.8.4 'Private Open Space – Quantity' and Section 8.2.8.4 (ii) 'Separation Distances' are noted as of relevance.

5.2. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

David Mulcahy Planning Consultants Ltd have been employed by E. O'Leary, M. O'Leary & B. McManus and E. & M. Duffy to prepare an appeal against the decision of Dun Laoghaire-Rathdown County Council to grant permission for this development. The appellants are not proposed to infill development but have specific concerns listed. Details of a meeting between the applicant and one of the appellants is detailed.

The issues raised in the appeal include:

- Insufficient regard was had by the Planning Authority to the issues raised in the letters of objection to the original application.
- The proposal would result in overdevelopment of the site.
- The proposed design would be out of character with the existing form of development in the area. Examples of more appropriate development are found in the area.
- The development would be overbearing on existing houses.
- The submitted shadow analysis is not correct and is a copy of an analysis for a previous application.
- The open space provided is of a poor quality.
- Query over the size of the attic space and the need for so many rooflights.
- Concern about overlooking leading to a loss of privacy.
- Concern that the development may give rise to structural impacts on adjoining properties.
- The basement level office may be used as a bedroom, even though it may not comply with fire/ building regulation standards.
- Inadequate car parking is proposed for a house that could accommodate six bed spaces.

- Concern about the impact on the future development of the appellants' properties.
- Potential for flooding/ surface water issues.
- Glint and glare may be an issue in relation to the proposed large rooflight on the north facing side of the roof.
- The proposed chimney is excessively large and would impact negatively on the visual amenity of the area.

The appeal is supported by numerous photographs with supporting captions.

6.2. Planning Authority Response

The grounds of appeal do not raise any new matters, so no additional comment is made.

6.3. Applicant's Response

- 6.3.1. The applicant has engaged the services of Doyle Kent Planning Partnership Ltd. to respond to the appeal. The submitted report provides a planning history of the site and demonstrates how the development complies with relevant national and local policy. The submission details how the development is appropriate for this location and why the architectural design is considered to be acceptable having regard to the character of the area.
- 6.3.2. Residential amenity will not be negatively impacted by this development; full consideration is made in relation to overbearing, overshadowing and overlooking. The justification for the roof level windows is provided, primarily to provide for light as no windows are proposed in the northern elevation. The attic space cannot be used for habitable purposes as it will not comply with the Building Regulations. The office space is designed for the intended use. Car parking concerns by the appellants are overstated and any alterations to the boundary treatment are within the scope of the public notices.
- 6.3.3. Details are provided as to how the house will be constructed and no concerns in relation to structural impact are foreseen. Similarly issues in relation to flooding/ surface water drainage are not foreseen.

7.0 Assessment

7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Nature of the Development
- Impact on Residential Amenity
- Design and Impact on the Character of the Area
- Infrastructure
- Appropriate Assessment Screening

7.2. Nature of the Development

7.2.1. The proposed development consists of a detached, house located on part of the rear/ northern garden of no. 1 Woodley Park. A new vehicular/ pedestrian access is proposed to serve the new house from the eastern/ Sweet Briar Lane side of the site.

7.2.2. I note the planning history of this site and in particular the decision under P.A. Ref. D18A/0092/ ABP Ref. 302741-18. The scale and design of house was considered to be acceptable, the reason for refusal focused on the quality and layout of private amenity space. The principle of a house on this site is therefore established and will provide for a modest densification within an established urban area.

7.3. Impact on Residential Amenity

7.3.1. The proposed floor area and room sizes are acceptable in terms of floor area and useability. The design is carefully considered in an attempt to ensure that it can integrate into this site whilst ensuring that residential amenity is provided to a high standard. The design is unusual in that the bedrooms are provided at basement level. In providing a courtyard to the southwest of the bedrooms, with large windows serving them, these rooms will receive good daylight and it is considered that bedrooms do not necessarily require sunlight but do require daylight.

7.3.2. Open space is provided in the form of a courtyard at basement level and a rear garden to the west of the house with an area of 45 sq m. The courtyard and gardens are connected by a staircase. As per Section 8.2.8.4 'Private Open Space' – Quantity of the Dun Laoghaire-Rathdown County Development Plan 2016-2022,

open space is counted at that area of land behind the front building line of the house. For a two-bedroom house, a minimum of 48 sq m shall be provided and narrow strips of open space to be excluded from the calculations. The total quantity of open space is therefore in excess of 60 sq m and I am satisfied that the quantity is sufficient for a two bedroom/ four-person house. The open space is also useable and will provide for a high quality of residential amenity. Adequate private amenity space is retained for no. 1 Woodley Park.

7.3.3. The proposed house will not negatively impact on adjoining properties in terms of overlooking leading to a loss of privacy or overshadowing leading to a loss of available daylight. This is effectively a single storey house when viewed from adjoining properties/ the public street. Overlooking leading to a loss of privacy is not foreseen as there are no windows serving habitable rooms to the north and windows at attic level do not serve habitable rooms. The house is approximately 6.2 m in height. There is sufficient separation between the proposed unit and 168/A Kilmacud Road, that ensures that overshadowing is not an issue. Some overshadowing of the rear gardens of the houses to the north may occur, but this is not expected to be significant. Houses to the south will not be overshadowed by this development.

7.3.4. I note the issues raised in the appeal regarding impact on residential amenity. Issues raised, including potential overlooking, are speculative on development taking place that does not form part of this application/ appeal. For example, most of the attic space is void and the area that is floored is not accessible by stairs etc. It is possible to provide a stair to this space, but in doing so, a significant part of the living room would be negatively impacted upon. I can only comment on the submitted information and not on what may or may not occur in the future. I do agree with the Planning Authority on limiting exempted development rights, more so to ensure the protection of private amenity space for future occupants of this residential unit.

7.3.5. Reference was made to concerns regarding glint and glare. I do not foresee that glare will be an issue from the north facing roof slope. Glint may occur, but this is unlikely to occur in such an urban location for no more than a couple of minutes. I do not foresee these issues as arising to any significant level as to impact on residential amenity. As noted in the applicant's response to the appeal, such

concerns would have a serious impact on residential amenity in urban areas if rooflights were to be omitted for reasons of glint/ glare.

7.4. Design and Impact on the Character of the Area

- 7.4.1. The design of house is somewhat unusual in that it provides for a single storey red brick unit in an area of semi-detached houses. The house will be somewhat unique in the area, however, the design will not have a negative impact on the character of the area. I note number 168A Lower Kilmacud Road, which is a contemporary design of house and which fits into the streetscape in terms of the road it addresses. I would consider that the proposed unit does the same for Sweet Briar Lane, providing for an active frontage and perhaps makes up for the very blank elevation onto this street, presented by 168A. I noted on the day of the site visit that pedestrian activity was high on this stretch of street and the proposed development will improve passive surveillance here.
- 7.4.2. The proposed house when viewed from the street is not large and does not give rise to overbearing on the streetscape. The proposed unit is going to appear very modest when viewed adjacent to no. 168A, which is a much larger residential unit. The proposed house does not break the established building line, as 168A has already done that and in fact I would consider the development of this house strengthens the building line when viewed in the context of 168A and the extended no. 1 Woodley Park.
- 7.4.3. The proposed material finishes of red brick and natural slate are acceptable. The ground floor of the semi-detached houses on adjoining sites are finished in red brick, the proposed unit therefore has regard to the elevational treatment of houses in the area. The proposed chimney appears to be high but this is an optical illusion in the context of a chimney serving a single storey house, when viewed from the public street. The chimney will not be a tall structure in the context of existing houses to the north and south of the site.

7.5. Infrastructure

- 7.5.1. The Municipal Services Department – Drainage Planning report raises no concerns regarding this development. A Site Specific Flood Risk Assessment (SSFRA) has

been submitted in support of the development and the submitted details demonstrate that the development can be undertaken without impacting on the area.

- 7.5.2. No report was received from the Transportation Department; however, I am satisfied that a car parking space can be provided here. Public transport is available in the area and one car parking space should be adequate for a two-bedroom house. The site is located in an established urban area with appropriately restricted speed limits, the provision of a new vehicular entrance should not give to any traffic safety concerns especially as parking is only for one car. No gate is proposed on the submitted plans, but a condition will be attached that any gate be inward opening only.
- 7.5.3. Concern was expressed about impact during the construction phase of development. These are issues that are considered under other legislation and the onus is on the developer to comply with the relevant building and fire regulations. Similarly, the relocation of an electrical substation is a matter between the ESB and the developer.

7.6. **Appropriate Assessment Screening**

- 7.6.1. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

8.0 **Recommendation**

- 8.1. I recommend that permission be granted subject to the following conditions and reasons.

9.0 **Reasons and Considerations**

- 9.1. Having regard to the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 and the zoning of the site for residential purposes, to the location of the site in an established urban area within walking distance of public transport and to the nature, form, scale, density and design of the proposed development, it is considered that, subject to compliance with the conditions set out

below, the proposed development would not seriously injure the residential or visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application submitted on the 7th of July 2020, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to the commencement of development, the developer shall provide, for the written agreement of the planning authority, full details of the proposed external design/ finishes in the form of samples and on-site mock-ups. These details shall include photomontages, colours, textures and specifications.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001 as amended, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwelling houses without a prior grant of planning permission.</p> <p>Reason: In the interest of residential amenity.</p>

4.	<p>i) The vehicular access, including the dishing of the grass verge, serving the proposed development, shall comply with the requirements of the Planning Authority for such road works.</p> <p>ii) Any gate to be installed shall be inwards opening only and shall not open across the public footpath.</p> <p>Reason: In the interest of traffic and pedestrian safety.</p>
5.	<p>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.</p> <p>Reason: In the interest of public health.</p>
6.	<p>The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
7.	<p>The relocation of the electricity substation within the curtilage of No. 1 Woodley Park, shall be undertaken at the developer's own expense and to the satisfaction of the Electricity Operator.</p> <p>Reason: In the interest of adequate public utility provision.</p>
8.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between the hours of 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.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
9.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to</p>

	<p>commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>
10.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>
11.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.</p> <p>Reason: In the interest of orderly development and the visual amenities of the area.</p>
12.	<p>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</p>

	<p>matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>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.</p>
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Paul O'Brien
Planning Inspector

13th November 2020