



An
Bord
Pleanála

Inspector's Report

ABP-311653-21

Development	Demolition of existing two-storey extension and the construction of new two-storey extension to an existing dwelling, construction of new two-storey dwelling, and all ancillary site works.
Location	21, Woodlawn Park, Dun Laoghaire, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D21A/0680
Applicant(s)	JOM Investments Unlimited co.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Maureen Daly
Observer(s)	Dymphna Barnes & Others

Date of Site Inspection

1 July 2022

Inspector

Gillian Kane

1.0 Site Location and Description

- 1.1.1. The site comprises the western garden of no. 21 Woodlawn Park, a semi-detached dwelling at the end of a row, located on the corner junction site of Woodlawn Park and Tivoli Close. Woodlawn Park is a residential development located in Mounttown, approximately 850 m to the south west of the centre of Dun Laoghaire.
- 1.1.2. Woodlawn Park is characterised by two-storey detached houses, with a detached infill house has been developed to the side of no. 24. A number of the houses have been extended/ modified over time. Off-street parking is available for each dwelling.
- 1.1.3. To the north, east and west of the subjects dwelling are similar properties. To the south of the site is the amenity area for Cualanor a large residential development of houses and apartments.

2.0 Proposed Development

- 2.1. On the 27th July 2021, planning permission was sought for the demolition of an existing two-storey extension (43.5sq.m.), to the side of an existing dwelling (no. 21), the construction of new two-storey extension (53.4sq.m.) to the rear of that dwelling and the construction of a two-storey dwelling (no. 21a) of 145sq.m. in the side garden, all on a site of 0.0275ha.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 17th September 2021, the Planning Authority issued a notification of their intention to GRANT permission subject to 13 no. conditions. Condition no. 2 requires the submission of a scaled drawing of the west elevation prior to the commencement of development and condition no. 8 requires the vehicular entrance to be no more than 3.5m.

3.2. Planning Authority Reports

- 3.2.1. **Drainage Division:** No objection subject to 2 no. Standard conditions.
- 3.2.2. **Transportation Planning:** No objection subject to 3 no. conditions
- 3.2.3. **Planning Report:** Precedent for side garden development exists. Proposed development complies with development standards for internal areas, private amenity space, and separation distances. Proposed design of dwelling is acceptable

in terms of residential and visual amenity. Proposed extension to existing dwelling is acceptable. Recommendation to grant permission.

3.3. Prescribed Bodies

3.3.1. **Irish Water:** No objection.

3.4. Third Party Observations

3.4.1. Submissions to the Planning Authority raised objections to the proposed development on the grounds of precedent, breach of the building line, overlooking, traffic, design and form of proposed dwelling.

4.0 Planning History

4.1.1. **PL06D.210228:** Planning permission refused for a dwelling to the side for the following reason:

1. Having regard to the size and configuration of the site and the pattern of development in the area, a detached house with a hipped roof would be out of character and out of scale with properties in the vicinity, would seriously injure the amenities of the area and properties in the vicinity, and would, therefore, be contrary to the proper planning and sustainable development of the area

4.1.2. **PL06D.217990** (Planning Authority reg. ref. D06A/0384) : Planning permission was granted for the construction of a two-storey dwelling to the side. Condition no. 2 stated:

2. The proposed development shall be amended as follows:
 - (a) The first-floor windows to bedrooms 1 and 3 on the east facing elevation of the proposed development shall be glazed fully only with obscured glazing, which shall remain fixed and unopenable.
 - (b) The cill height of the first-floor bathroom window shall be minimum 1600 millimetres above floor level.
 - (c) The southern mono pitch roof shall be lowered in height by 550 millimetres.

Reason: To protect the amenities of nearby properties and in the interest of visual amenity.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown Development Plan 2022-2028

- 5.1.1. The 2022 Dun Laoghaire Rathdown development plan came into effect on the 21st April 2022, after the assessment of the subject application by the Planning Authority.
- 5.1.2. As was the case under the old development plan, in the 2022 plan the site is zoned Objective A 'To protect and/ or improve residential amenity'. Residential development is listed within the 'Permitted in Principle' category of this zoning objective.
- 5.1.3. **Policy Objective PHP19: Existing Housing Stock – Adaptation:** It is a Policy Objective to: Conserve and improve existing housing stock through supporting improvements and adaption of homes consistent with NPO 34 of the NPF. Densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.
- 5.1.4. Section 12.3.7.5 of the development plan refers to Corner / Side Garden sites. It states that corner site development refers to sub-division of an existing house curtilage and/or an appropriately zoned brownfield site, to provide an additional dwelling(s) in existing built up areas. In these cases, the Planning Authority will have regard to the following parameters:
- 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 provided on site.
 - Side/gable and rear access/maintenance space.
 - Adequate usable private open space for existing and proposed dwellings provided.
 - 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 where it may not be appropriate to match the existing design.

- Side gable walls as side boundaries facing corners in estate roads are not considered acceptable and should be avoided.
- Appropriate boundary treatments should be provided both around the site and between the existing and proposed dwellings. Existing boundary treatments should be retained/ reinstated where possible.
- Use of first floor/apex windows on gables close to boundaries overlooking footpaths, roads and open spaces for visual amenity and passive surveillance.

5.2. Natural Heritage Designations

- 5.2.1. The South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024) are 0.9km to the north of the subject site.

5.3. EIA Screening

- 5.3.1. Having regard to nature and scale of the proposed development and the urban location of the site there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An agent for Maureen Daly, of 18 Woodlawn Park has submitted an appeal of the decision of the Planning Authority to grant permission. The grounds of the appeal can be summarised as follows:
- The application should have been invalidated as the application form has failed to name the company directors, in contravention of article 26(4) of the Regulations. The Planning Authority's decision should be vitiated.
 - This error was not considered by the Planning Authority and therefore the decision is invalid.
 - Case law such as *Connelly v An Bord Pleanála* and *Blaz v An Bord Pleanála* require the Board to make precise and definitive findings of conclusion.

- The Board is requested to declare the application invalid under section 34(b) of the Planning and Development Act 2000, as amended or article 26(4) of the Planning and Development Regulations 2001-2021.
- The eastern elevation of the proposed dwelling is too close to the eastern boundary at 1.6m. The front building line is 19.7m from the two-storey semi-detached dwellings opposite. This is out-of-keeping with the prevailing standard.
- The proposed development would be refused due to undue loss of residential amenity. Photos submitted.
- The separation distance from the proposed dwelling to the appellants dwelling will result in a concerning loss of privacy. The proposed ground and first floor windows are less than 20m from the appellants front door.
- The design of the front elevation contrasts with the previously granted permission where fenestration was strictly conditioned. The Boards condition protected the privacy of the appellants property. The Board is requested to attach such a condition.
- The proposed development is 20sq.m. larger than previously permitted. the proposed dwelling is out of keeping with the pattern of development in the area and section 8.2.3.4 of the development plan. Photo submitted.
- The excessive impact on privacy has not been considered by the applicant.
- The excessively wide two-storey dwelling has a strong horizontal emphasis that would be out of character with the area. This lack of 'visual harmony' is not in accordance with section 8.2.3.4 of the development plan.
- The proposed development would be visually obtrusive and incongruous on site, impacting the visual amenity of the area.
- The road slopes to the south, so the scale of the dwelling from the south would be excessively overbearing, and visually obtrusive.
- The proposed development is contrary to Section 8.2.3.4 of the development plan which requires new development to respect building lines. The side garden dwelling at 24A is not a precedent as it had side boundary setbacks and a carefully considered side elevation. The proposed development should emulate no. 24A.
- The proposed dwelling will have substantial detrimental impacts on neighbouring properties. It will incur major traffic disruption as occurred when Cualanor was

being developed. Photos submitted. There is limited capacity for construction traffic.

- There is a risk to the pedestrians and cyclists using the rear entrance to Cualanor from traffic, from damaged paths and roadways. Standard conditions or traffic / construction management plans are unable to deal these effects.
- The Planning Authority (D19A/0716) refused permission for a dwelling to the side of no. 1 Woodlawn Park due to the detrimental impact on residential amenity, the devaluation of property and undesirable precedent. The Board (ABP-306143-19) upheld that decision stating that the proposed development would be out of character with the existing development in the vicinity. The Board is requested to refuse permission accordingly.

6.2. Applicant Response

- 6.2.1. None on file

6.3. Planning Authority Response

- 6.3.1. The grounds of the appeal do not raise any new matter which in the opinion of the Planning Authority would justify a change of attitude to the proposed development.

6.4. Observations

- 6.4.1. **Dymphna & Paul Barnes 16 Woodlawn Park, Owen Blair 13 Woodlawn Park, Gwendoline Blowers 19 Woodlawn Park, Madeleine & James Kelly 20 Woodlawn Park**

- Bad precedent by having the building line so close to the boundary line,
- Proposed dwelling is out of character with the well-established and mature estate
- Over development of site
- Major traffic disruption, congestion and traffic hazards
- Construction traffic will cause congestion, damage the paths, green verges and trees.
- The retention of the concrete pier wall “where possible” allows latitude to remove it.
- The proposed development will have a negative and detrimental impact on residential amenity of the area.

- The proposed main entrance so close to the Cualanor entrance will cause pedestrian and cyclist hazard.
- The Board is requested to refuse permission.

6.5. Further Responses

6.5.1. None on file.

7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Residential Amenity
- Traffic / Parking

7.2. Principle of Development

- 7.2.1. The subject site is located in an area zoned to protect and / or improve residential amenity. I note that the principle of a dwelling on the subject side garden has been accepted by the Planning Authority and the Board. The proposed development is considered to be in accordance with policy PHP19 of the 2022-2028 Dun Laoghaire Rathdown County Development Plan which seeks to densify existing built-up areas in the County through small scale infill development, whilst having due regard to the amenities of existing established residential neighbourhoods.
- 7.2.2. Subject to compliance with other planning considerations, the proposed development is acceptable in principle.
- 7.2.3. The appellant submits that the application should be invalidated as the application form did not name the company directors of the applicant. This may be a matter that the Board wish to address, however I note that the applicant has indicated sufficient legal interest to make the planning application. A deficiency at Planning Authority stage does not preclude the Board from making an assessment on an appeal before it.

7.3. Residential Amenity

- 7.3.1. The appellant submits that the location of the proposed dwelling close to the eastern boundary, and at a distance of less than 20m from the appellants dwelling will negatively impact their residential amenity by way of injury to residential amenity.
- 7.3.2. I find no evidence for a breach of an established building line in the proposal. The proposed dwelling continues the building created by the terrace of dwellings no.s 21-24 and the newest dwelling no. 24A. The eastern elevation of the existing dwelling is broadly in line with the eastern elevation of the dwelling to the north no. 7, on plan, however at streetscape level there is no visible building line. Both properties have mature planting in their side garden, obscuring any alignment between the two dwellings.
- 7.3.3. The eastern (front) elevation proposed dwelling is approx. 20m from the front elevation of the appellant and observer dwellings to the east. This is broadly in line with the separation distances of approx. 24-26m that exist between the front elevations of all of the existing dwellings. It is considered that a 20m separation distance is sufficient to avoid overlooking, being only marginally below the generally accepted standard of 22m between directly opposing first floor windows.
- 7.3.4. The proposed dwelling is oriented to the east, with the front door facing east / the cul-de-sac. It is proposed to have two-bedroom windows and an obscure glazed bathroom window on the eastern elevation at first floor level. While this is not demonstrated elsewhere with the estate, it not material. The northern elevation of the proposed dwelling will read as an extension of the existing dwelling, having regard to the roof profile and design. The design of the proposed dwelling is broadly in keeping with the established design aesthetic of the estate. Further, it complies with the criteria of section 12.3.7.5 of the development plan which encourages the use of first floor windows on gables close to boundaries overlooking footpaths, roads and open spaces for visual amenity and passive surveillance.
- 7.3.5. On balance, I am satisfied that the proposed development complies with the development plan policy on infill housing, on densification of existing residential areas and on development in side garden / corner sites.

7.4. Traffic

- 7.4.1. It is proposed to provide two car parking spaces to the rear (south) of the proposed dwelling. The proposed vehicular entrance utilises the existing vehicular entrance for the existing dwelling no. 21. I see no reason why the proposed development will materially impact the existing traffic or parking environment therefore. The existing situation with regard to traffic at the pedestrian / cycle entrance to Cualanor will not change. No additional traffic hazard will arise.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the proposed development to be retained in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that the proposed development would not 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 permission be GRANTED for the following reasons and considerations and subject to the following conditions:

9.0 Reasons and Considerations

- 9.1.1. Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission is sought to retain 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.
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	<p>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>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 and to ensure a proper standard of development.</p>
3.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>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>
4.	<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. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interest of orderly development and the visual amenities of the area.</p>
5.	<p>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 hours of working, noise</p>

	<p>management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
6.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Classes 1, 3 and 5 of Schedule 2, Part 1 to those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.</p> <p>Reason: In the interest of orderly development, and to allow the planning authority to assess the impact of any such development on the amenities of the area through the statutory planning process</p>
7.	<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. 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.</p> <p>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.</p>

Gillian Kane
Senior Planning Inspector

06 July 2022