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Bord  
Pleanála

## Inspector's Report ABP312395-22

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<b>Development</b>	Construct a detached dormer bungalow
<b>Location</b>	Peyton View, Peyton, Rathcoole, County Dublin.
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD21A/0277
<b>Applicant(s)</b>	Stanley Residential DAC.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party V Refusal
<b>Appellant(s)</b>	Stanley Residential DAC
<b>Observer(s)</b>	<ol style="list-style-type: none"><li>1. Malcolm &amp; Kate Cooney</li><li>2. Conor Cahil</li><li>3. Szymon Urbas</li></ol>
<b>Date of Site Inspection</b>	18 <sup>th</sup> March 2022
<b>Inspector</b>	Hugh Mannion

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## **1.0 Site Location and Description**

- 1.1. The application site has a stated area of 0.02713ha and comprises a rectangle of open land on a corner between 6 and 7 Peyton View, Peyton, Rathcoole County Dublin. The Peyton housing development comprises largely two/three storey houses located to the southwest of Rathcoole village centre and south of the N7 in County Dublin. The application site is unfenced on its roadside boundaries and adjoins the site of number 6 Peyton View on its northern boundary and number 7 Peyton View on its eastern boundary. To the south of the application site and across the road is public open space which slopes up to the south from the road.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the erection of a 4-bed dormer bungalow and associated site works at Peyton View, Peyton, Rathcoole, County Dublin.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Refuse permission for two reasons.

1. The application site was designated public open space in the original grant of planning permission under SD12A/0238. The proposed development would seriously injure the amenity of the dual aspect house at 6 Peyton Place and seriously injure the amenity of the overall Peyton Housing development. The proposed development would materially contravene condition 1 of the permission under SD12A/0238 and be contrary to Development Plan policy objective H17 in relation to corner sites and be contrary to the proper planning and sustainable development of the area.
2. The rear garden of the proposed house would be overlooked from numbers 6 and 7 Peyton View and would therefore be contrary to the Sustainable Residential Development in Urban Areas Guidelines and policy objective H15 in relation to rear gardens in the County Development Plan.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The planners report recommended refusal as set out in the manager's order.

### 3.2.2. Other Technical Reports

**Irish Water** - reported no objection subject to conditions.

**Water Services Report** – recommends further information in relation to disposal of surface water and reported no objection in relation to flood risk.

## 4.0 Planning History

SD12A/0238 granted permission for the overall Peyton housing development.

## 5.0 Policy and Context

- 5.1. The Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (DOEHLG 2009) encourage higher density residential development and infill development in existing urban areas where public services are available. In relation to privacy associated with new housing the guidelines (paragraph 7.04) advise that:

Privacy is an important element of residential amenity and contributes towards the sense of security felt by people in their homes. Where ground floor dwellings have little or no front gardens, it is important that “defensible space” is created behind the public footpath, for example, by means of a planting strip, and the design of ground floor windows will need to be carefully considered. Similarly at the rear of dwellings, there should be adequate separation (traditionally about 22 m between 2-storey dwellings) between opposing first floor windows. However, such rules should be applied flexibly: the careful positioning and detailed design of opposing windows can prevent overlooking even with shorter back-to-back distances. Windows serving halls and landings do not require the same degree of privacy as, say, balconies and living rooms.

**5.2. Development Plan**

5.3. The South Dublin County Development Plan 2016 – 2022 is the relevant County Development Plan for the area.

**5.4. Housing Policy 15**

5.5. It is the policy of the Council to promote a high standard of privacy and security for existing and proposed dwellings through the design and layout of housing.

5.6. H15 Objective 3: To ensure that private open spaces are enclosed within perimeter blocks behind the building line and that they are subdivided by suitably robust boundary treatments of a sufficient height and composition to provide adequate privacy and security.

**5.7. Housing Policy 17 -Residential Consolidation**

5.8. It is the policy of the Council to support residential consolidation and sustainable intensification at appropriate locations, to support ongoing viability of social and physical infrastructure and services and meet the future housing needs of the County.

5.9. H17 Objective 3: To favourably consider proposals for the development of corner or wide garden sites within the curtilage of existing houses in established residential areas, subject to appropriate safeguards and standards identified in Chapter 11 (development standards).

5.10. Table 11.20 in the Plan requires 70m<sup>2</sup> per 4-bedroom house.

5.11. Table 11.24 in the Plan requires the provision of 2 space per 3 bed houses.

**5.12. Natural Heritage Designations**

Not relevant

**5.13. EIA Preliminary Examination**

5.14. Having regard to nature and scale of the proposed development and the absence of emissions therefrom it is possible to exclude the requirement for submission of an EIAR at a preliminary stage.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The application site is zoned RES “to protect and/or improve residential amenity” in the South Dublin County Development Plan 2016-2022 and residential development is therefore permitted in principle on the site.
- The overall Peyton housing development was granted permission under reference number SD12A/0238 in the lifetime of the County Development Plan 2010-2016 when the site was zoned for rural amenity/agriculture, this zoning was subsequently changed to residential and the proposed development now complies with the Development Plan zoning.
- The site is an urban infill site suitable for residential development recognising that in such circumstances some overlooking is inevitable. Amended drawings 2110AP02b and 2110 AP07 provide proposals to minimise overlooking.
- The proposed private open space attached to the proposed house is adequate and meets the standards set out in policy objective H13 of the County Development Plan.
- Number 6 Peyton View is north of the site and there will be no impact on that house.
- Contravention of the previous permission would not arise if this application is successful.
- The site does not function/is not used as public open space and is large enough to accommodate a house.
- The proposed house reflects the design of the neighbouring houses.

### 6.2. Planning Authority Response

- The planning authority commented that the issues raised in the appeal are covered in the planner’s report on file.

### 6.3. **Observations**

6.4. Observations were received from Szymon Urbas, Malcom and Kate Cooney, and Conor Cahill. These observations may be summarised as follows.

- The master bedroom and bathroom windows of number 7 Peyton View overlook the site and therefore the proposed development will seriously injure the residential amenity of that property.
- The proposed development will block light to 7 Peyton View.
- The site is used as public open spaces for local residents/children and families purchased their houses on the assumption that the area would remain as public open space.
- The front door of the proposed house will open directly onto the footpath which is contrary to the pattern of development in the area.
- The main bedroom and other rooms on 6 Peyton View will be overlooked by the proposed house.
- The proposed house will block light to 6 Peyton View.
- The proposed development will interrupt sightlines on the public road and endanger the safety of children who habitually use the open space.
- The amendments submitted at appeal stage will add to the unreasonable impacts on 7 Peyton View.
- The proposed house will break the building line established by numbers 6 and 7 Peyton View.

### 6.5. **Further Responses**

6.6. None

## 7.0 **Assessment**

### 7.1. **Development Plan Zoning.**

7.2. The site is zoned for residential development in the current South Dublin County Development Plan and therefore the proposed development is acceptable in principle.

### 7.3. **Residential Standards.**

7.4. The application complies with the County Development Plan standards for parking providing two spaces. The private open space provision is 70m<sup>2</sup> which also complies with the Development Plan standards for private open space.

### 7.5. **Loss of public open space.**

7.6. The observers make the point that the application site is used as public open space by nearby residents. As noted above the site is not zoned public open space whereas there is zoned public open space (4,700m<sup>2</sup>) directly across from the application site and from house numbers 7 to 13 Peyton View. Additionally, there are 5 further pieces of public open space within the overall Peyton development. I conclude that the loss of this area will not materially impact on the quantum of public open space in the overall housing development.

### 7.7. **Impact on Adjoining Property.**

7.8. The front elevation has first floor windows overlooking the public road and the public open space to the south. This arrangement will not negatively impact the amenity of adjoining property. The rear elevation has one roof window lighting a first-floor bathroom. This rooflight will not negatively impact the amenity of adjoining property. The eastern elevation facing number 7 Peyton View has no first-floor windows and number 7 Peyton View is elevated over the application site. The proposed private open space is located on this (eastern) side of the site. The appeal makes the point that this area will be overlooked from number 7 Peyton View thereby seriously injuring the amenity of that house. I do not consider that occasionally viewing activity associated with a domestic garden from an adjoining site meets the threshold of serious injury to residential amenity requiring refusal of permission.



- 7.9. On the western elevation there are two first floor windows which serve two bedrooms. These face onto the public road and do not give rise to injury to the amenity of adjoining property.
- 7.10. The observers make the case that the proposed development will block light to numbers 6 and 7 Peyton View. The application site is to the west of 7 Peyton View. The ground floor elevation of the proposed house is 7m off the boundary and the first-floor elevation is about 8m off the boundary and at a considerably lower elevation. The application site is due south of number 6 Peyton View but the garden space and the single storey element of the new house will ensure that direct sunlight into the private open space on number 6 Peyton View will not be unreasonably negatively impacted. Having regard to these points I conclude that the proposed development will not block light to the adjoining property in a manner as to seriously injure the residential amenity of those properties.
- 7.11. Finally, I consider that the proposed house will not be out of character with the pattern of residential development in the overall Peyton housing development.
- 7.12. **Traffic safety.**
- 7.13. The observers make the point that the proposed house will interfere with sightlines for traffic using the public road in the vicinity of the application site. The speed limit within the development is 50k/h but would be further limited by the requirement to slow down when rounding the corner into Peyton View. The design manual for roads and streets advises against creating long open vistas in housing developments as these then encourage higher speeds. I conclude that the proposed house will not impact on traffic speeds or safety.
- 7.14. **Revised Plans**
- 7.15. The applicant submitted revisions with the grounds of appeal. These include ‘flipping’ the private open space from east to west within the site (drawing number 2110AP02b) and removing ground floor windows to the proposed ground floor sitting room (drawing number 2110AP07). I do not consider that these amendments are necessary to protect the amenity of adjoining property. Additionally, the amendments have not been advertised to the public for comment. I conclude that the amendments should not be considered by the Board as a basis for decision.

#### **7.16. Appropriate Assessment.**

7.17. Having regard to minor scale and the foreseeable emissions from the proposed development 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 planning permission.

### **9.0 Reasons and Considerations**

9.1. Having regard to the infill nature of the application site, its location in an established residential area and the zoning of the site for residential development in the South Dublin County Development Plan 2016-2022, the availability of public piped services and vehicular and pedestrian access and subject to compliance with the conditions set out below it is considered that the proposed development would not seriously injure the amenity of property in the vicinity, would be in accordance with the provisions of the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009), with the provisions of the current County Development Plan and 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 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><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works.</p> <p><b>Reason:</b> In the interest of public health.</p>
3.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
4.	<p>A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development.</p> <p><b>Reason:</b> in the interest of visual and residential amenity.</p>
5.	<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</p>

	<p>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><b>Reason:</b> 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>
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Hugh Mannion  
Senior Planning Inspector

21<sup>st</sup> March 2022