



An  
Bord  
Pleanála

## Inspector's Report ABP-312555-22

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<b>Development</b>	Demolition of the existing shed; construction of a 2-storey 4 bedroom, flat roof detached dwelling with covered patio and rooflights to the side of existing house.
<b>Location</b>	No. 1 The Rise, Mount Merrion, Blackrock, Co. Dublin
<b>Planning Authority</b>	Dún Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D21B/0947
<b>Applicant(s)</b>	Fergal & Jane Gaughran
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Fergal & Jane Gaughran
<b>Observer(s)</b>	Francis Moran on behalf of Mount Merrion Residents Association
<b>Date of Site Inspection</b>	22 <sup>nd</sup> April 2022
<b>Inspector</b>	Donal Donnelly

## 1.0 Site Location and Description

- 1.1. The appeal site is located at No. 1 The Rise in Mount Merrion approximately 6km to the south-east of Dublin city centre. The Rise commences at a junction with Stillorgan Road (N11) and continues upgradient and south for approximately 1km to a 'T' junction with Trees Road Lower. The Rise is aligned on both sides by detached and semi-detached dwellings mostly on large plots. Dwellings are set back from the road and the building line is reasonably consistent.
- 1.2. No. 1 The Rise is a corner site situated at the northern end of the road at the junction with St. Thomas Road. There is a large 2-storey north-facing dwelling located on site with mature trees and hedgerow around all boundaries. Vehicular access is from St. Thomas Road and there is a pedestrian entrance onto The Rise. To the eastern side of the dwelling is a single storey shed structure. The stated area of the appeal site, which forms the eastern side of the property, is 0.0585 hectare.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for sub-division of the site and development consisting of the following:
  - Demolition of the existing shed;
  - Construction of a 2-storey 4 bedroom, flat roof detached dwelling with covered patio and rooflights to the side of existing house;
  - New 3.5m wide vehicular entrance off The Rise;
  - All associated ancillary works necessary to facilitate the development including SUDS drainage, site works, boundary treatments and landscaping.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Dún Laoghaire Rathdown County Council issued notification of decision to refuse permission for the proposed development for the following reasons:

1. *Having regard to the pattern of development in the area, it is considered that the proposed development would significantly detract from adjoining residential amenity by way of overlooking and perceived overlooking, and overbearing impacts, contrary to Section 8.2.3.4(v) of the Dún Laoghaire Rathdown County Development Plan 2016-2022 and to the proper planning and sustainable development of the area.*
2. *The proposed development would be contrary to Section 8.2.3.4(v) Corner/Side Garden Sites of the County Development Plan 2016-2022, which also requires that building lines are followed where appropriate. Noting the angled arrangement of the development, and close proximity to surrounding boundaries, and its size, height, bulk and massing; the proposed development may have a detrimental visual and dominant impact on the existing dwelling, and would represent an overly visually prominent and discordant element on the streetscape. With regard to the positioning of the dwelling on the boundary with no. 1, and no. 3, the proposed development would negatively impact on the visual and residential amenities of no. 1 and no. 3, and would materially contravene the zoning objective of the site which is ‘to protect and/or improve residential amenity’ and would set a poor precedent for similar type development in the area. It is considered that the proposed development would, therefore, seriously injure the amenities and depreciate the value of property in the vicinity, and would be contrary to the proper planning and sustainable development of the area.*

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

- 3.2.1. The recommendation to refuse permission in the Planner’s Report reflects the decision of the Planning Authority. The following are the main points raised in the assessment of the proposal:
  - Residential development may be permitted under the zoning objective where the Planning Authority is satisfied that the development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects, and would otherwise be consistent with the proper planning and sustainable development of the area.

- Due to the dwelling's close proximity to site's boundaries on both its east and west sides, and to the rear, the development would appear overbearing on both the neighbouring dwellings and the public road.
- Proposed house would protrude notably beyond the existing main rear building line of the parent dwelling at ground level and to a lesser extent at first floor level.
- Close proximity to the rear boundary, and the adjacent property structures to the rear is not fully or clearly indicated in the side elevation drawings.
- Small separation distances to the site boundaries and surrounding structures, in the context of the subject prominent corner site, and established pattern of surrounding houses/ sites, and the proposal's size and location/ layout, is not acceptable.
- Modern style of the proposed dwelling is not in keeping with the majority of housing within the area. However, Fitzwilliam Court is modern in nature and therefore proposed contemporary design is acceptable in principle.
- Location of the proposed development constrains it to being in close proximity to the adjacent dwellings to the west, and The Rise to the south and east.
- Would appear difficult to maintain the existing level of boundary planting/ screening along the east side boundary compared to the existing boundary planting on the site and immediately surrounding houses that characterise this part of the streetscape.
- Building line along The Rise has not been maintained as part of this application.
- Both existing and proposed dwellings would have sufficient amounts of open space; however, the rear garden of the proposed house would be relatively restricted.
- Standard of accommodation for the existing and proposed dwellings is acceptable.
- Proposed dwelling would negatively impact on the streetscape and its receiving environment, and with a considerable level of fenestration, close to

the boundary and its relatively large side elevation, and design and bulk/massing is overly strong and would overbear and overlook The Rise.

- Proposed dwelling would have an unsympathetic and awkward relationship to the existing dwelling and receiving context, and would be a visually prominent and discordant element on the streetscape.
- Proposed dwelling would unduly and negatively impact on the residential amenity of the existing dwelling due to its proposed scale, close proximity and level of potential overlooking and perceived overlooking.
- Proposal will lead to some potential/ perceived overlooking, visual prominence and a negative overall impact on residential amenity from the neighbouring property at No. 3 The Rise.
- The Transportation Section and Water Services and Irish Water have no objection subject to conditions.

### **3.3. Third Party Observations**

- 3.3.1. Three third party observations were received by the Planning Authority which raise issues relating to alteration of building line, removal of trees, absence of elevations, vehicular access, planning history, alteration of vistas of the street, visually out of place, negative precedent, scale of dwellings, impact on character of house and landmark site, and inharmonious with surroundings.

## **4.0 Planning History**

Dún Laoghaire Rathdown County Council Reg. Ref: D08A/0215 (PL06D.228793)

- 4.1. Permission refused in October 2008 at No. 1 The Rise for a 2m high pedestrian gate at site boundary with uncovered entry lobby and an automatic sliding timber door.
- 4.2. The Board considered that the proposed development, with a height of 1.8 metres for a length of 3.6 metres from the pedestrian access and immediately adjacent to low level boundary treatments, and its location forward of the building line of the house, would be visually obtrusive from the public footpath and would be visually incongruous with the existing streetscape. The proposed development would seriously injure the amenities of the area and of property in the vicinity, would set an

undesirable precedent for similar development and would, therefore, be contrary to the proper planning and sustainable development of the area.

Dún Laoghaire Rathdown County Council Reg. Ref: D06A/1841

- 4.3. Permission granted in February 2007 at No. 1 The Rise for construction of a 2 storey house with attic accommodation and associated rooflights having a floor area of 492 sq.m., together with ancillary site works and landscaping. The proposed house is to incorporate that portion of the front gable wall and side wall of the former dwelling house presently on site. The retained front gable wall is to be altered by the removal of part thereof in order to increase the height of the first floor window by 300mm.

Dún Laoghaire Rathdown County Council Reg. Ref: D06A/0197

- 4.4. Permission granted in April 2006 for the demolition of the existing two storey/dormer dwelling and the construction of a replacement two storey (458 sq.m.) plus attic (60 sq.m.) five bedroom detached dwelling and ancillary site development works.

Dún Laoghaire Rathdown County Council Reg. Ref: D05B/0600 (PL06D.214786)

- 4.5. Permission granted in September 2005 for (i) the removal of the existing 16 sq.m. single-storey living room extension at rear, (ii) internal modifications to existing house, (iii) external alterations to elevations including raised (1m) replacement roof over existing dormer-style section, (iv) construction of 245 sq.m. 2-storey domestic extensions to front, side and rear to include six velux rooflights and (v) ancillary site works.

## 5.0 Policy Context

### 5.1. Dún Laoghaire Rathdown County Development Plan, 2016-2022

- 5.1.1. The site was zoned 'A' with the stated objective '*to protect and/ or improve residential amenity.*'
- 5.1.2. The principles of residential development are set out in Section 8 of the 2016-2022 Development Plan. Section 8.2.3.4(i) relates to extensions to dwellings.
- 5.1.3. The **Dún Laoghaire Rathdown County Development Plan 2022-2028** was adopted by the elected members on the 10<sup>th</sup> March 2022. The adopted Plan came into force 6 weeks after this date on the 21<sup>st</sup> April 2022.

5.1.4. The zoning of the site is now *“Objective A – To provide residential development and improve residential amenity while protecting the existing residential amenities.”*

Section 12.3.7 provides guidance on additional accommodation in existing built-up areas. It is stated under Section 12.3.7.5 that the Planning Authority will have regard to the following parameters with respect to corner/ side garden sites:

- 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. A first party appeal against the Council's notification of decision to refuse permission was lodged on behalf of the applicant. The grounds of appeal and main points raised in this submission are summarised as follows:

- Appeal site is located in an ideal location for infill development within easy walking distance of public transport and Stillorgan village.
- There is a high density site at Fitzwilliam Court opposite containing 11 no. apartments. There are also high density developments at the site known as Flanagan's, Deerpark Road and 16 Greygates, Roebuck Avenue.
- Having regard to the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), such development should be encouraged on the application site.
- Proposed unit responds appropriately to the irregular orientation and topography of the site to present a site-specific response to this natural restriction. Size of site is sufficient for the proposal to form its own unique identity as a contemporary infill.
- Contemporary design and set back nature of upper floors serve to dispel any semblance of residential amenity impacts.
- Proposed dwelling is appropriately designed to provide a high standard of accommodation for future occupants.
- Proposed development aligns with the existing dwelling and there is precedent in the area for not aligning with dwellings to the south.
- Highly contemporary nature of the development, both with regards to architectural and innovative design, is appropriate in achieving increased efficiency of an unduly large corner site.
- Opaque glazing is proposed on the 1<sup>st</sup> floor south facing window in the master bedroom to prevent undue overlooking.



- Majority of windows are facing east onto The Rise, resulting in increased levels of passive surveillance.
- Proposed development is suitably designed and scaled, through recognition of separation distances. Proposal will not cause loss of southern light to neighbouring dwellings.
- Proposed development is in compliance with the zoning objective and accords with Policies UD1, RES3, RES4 and RES7.
- Proposed development has a density of c. 40 dwellings per hectare and is therefore compliant with the Development Plan. Current residential density is 6.18 units per hectare and proposal will increase the density to 12.4 units per hectare.
- Proposed development is in accordance with the provisions of Project Ireland 2040 National Planning Framework.
- Subject site features a generous plot width and an ancillary garage, capable of being demolished to accommodate space for a new dwelling.
- There is precedent for the proposed development and for irregular building lines throughout Dún Laoghaire Rathdown and the wider Dublin area.
- There is varied architecture along The Rise which presents a unique opportunity to have a mix of traditional and contemporary designs making for place of visual interest.

## 6.2. **Planning Authority Response**

- 6.2.1. It is considered in the Planning Authority's response that the grounds of appeal do not raise any new matter which would justify a change of attitude to the proposed development.

## 6.3. **Observation**

- 6.3.1. An observation on the appeal was received from Mount Merrion Residents Association. The main points raised in this submission are summarised as follows:

- Proposal is shoe-horned into a small space to the detriment of the existing dwelling and existing tree-lined side of The Rise.
- Proposal lacks any form of empathy with the existing location.
- Geometry of the site will not allow for the construction of a very large 4-bedroom 2-storey dwelling.
- Standards appropriate to suburban areas rather than urban areas must be applied to Mount Merrion.
- Blue line does not include the subject site and impact on The Rise is not properly illustrated.
- High density sites in the surrounding area are not relevant to the appeal site.
- Design and many elements of the proposal are at variance with the existing architectural design of the residential area.
- Lack of alignment along The Rise is a key point of concern for local residents. Alignment prevents any screening along The Rise.
- Issues of permeability, legibility, robustness and vitality are irrelevant. Appeal fails to acknowledge the real issue which is the narrowness of the site causing unacceptable visual aspect and loss of trees.

## 7.0 Assessment

7.1. I consider that the key issues in determining this appeal are as follows:

- Development principle;
- Impact on residential amenity;
- Visual impact;
- Appropriate Assessment.

## 7.2. Development Principle

7.2.1. The appeal site is zoned 'A' with the stated objective *"to provide residential development and improve residential amenity while protecting the existing residential amenities."* The subdivision of the site and construction of an addition dwelling

would therefore be acceptable in principle subject to an assessment of the impact of the proposal on visual and residential amenities and compliance with other relevant Development Plan policies and objectives.

- 7.2.2. It should be noted that the Planning Authority assessed the proposed development under the provisions of Section 8.2.3.4(v) of the Dún Laoghaire Rathdown County Development Plan 2016-2022. Corner/ Side Garden Sites are addressed under Section 12.3.7.5 of the new Development Plan and this text is broadly similar to that under Section 8.2.3.4(v).

### **7.3. Impact on residential amenity**

- 7.3.1. It is stated under the first reason for refusal attached to the Council's decision that the proposed development would significantly detract from adjoining residential amenity by way of overlooking and overbearing impacts.
- 7.3.2. Impacts on residential amenity would largely be confined to the appeal site and the parent dwelling. I do not consider that there is potential for significant impacts on the amenities enjoyed by the residents of the dwelling to the south at No. 3 The Rise. The vertical window on the rear elevation of the proposed dwelling would face towards the side elevation of No. 3 and trees are shown along the southern site boundary that would screen the view of the proposed development. Any overbearing impact when viewed from No. 3 would also be screened sufficiently by existing/ proposed boundary treatments.
- 7.3.3. I would also be of the opinion that impact on residential amenity within No. 1 The Rise is not a primary issue of concern in this case. Measures can be put in place to prevent overlooking and there is sufficient room within the site to act as amenity space for two dwellings. The site will be sub-divided by way of a 1.8m high wall to the rear and a 1.1m high wall to the front of the site and this is no different to typical neighbouring suburban style properties.
- 7.3.4. Having regard to the above, I consider that there are not sufficient grounds in terms of impact on residential amenity to warrant refusal of the proposed development.

#### **7.4. Visual Impact and Potential for Compact Growth**

- 7.4.1. From the outset, I consider that large suburban sites in proximity to public transport and local amenities and facilities should be targeted for density increases. The Mount Merrion area in general is one of significant under-occupation both in terms of the dwellings themselves vis-à-vis household sizes, and the plot sizes in ratio to dwellings occupying them. Most gardens sizes are well above the minimum Development Plan standards and the population is low for the size of the area.
- 7.4.2. In my opinion, No. 1 The Rise is an opportunity size for high density residential development. It should be noted that this site is substantially larger than the site opposite at Fitzwilliam Court which hosts 11 no. apartments. I would be of the view that the proposed development would curtail the development potential of No. 1 The Rise. Notwithstanding this, the Board must assess the proposal before it in terms of relevant policy and guidelines and the proper planning and sustainable development of the area.
- 7.4.3. The Council's second reason for refusal refers to Section 8.2.3.4(v) of the 2016-2022 Development Plan and specifically to building lines being followed where appropriate. The first party appellant has gone into detail to dismiss the issue of building line breaches by outlining extensive precedent in the submission to the Board. It should be noted that Section 12.3.7.5 of the new Development Plan also states that building lines should be followed where appropriate.
- 7.4.4. I would be of the opinion that any protrusion of the established building line is a secondary issue in this case. Corner sites at the end of a row of dwellings can accommodate a stepping out of a building line better than a mid-terraced or mid row dwelling. A different building line at the end of a row can therefore have a bookending effect.
- 7.4.5. The main issue is not so much the detrimental visual and dominant impact on the existing dwelling, as noted in the second reason for refusal, but rather this effect in reverse. The existing dwelling has a frontage of approximately 21m and the proposed dwelling will have a frontage of c. 8m. On the contrary, my concern would be that the host dwelling would have an overbearing impact on the proposed dwelling.

7.4.6. In general, I consider that the proposal makes for a poor relationship between the new dwelling and the host dwelling that gives rise to an imbalanced and visually discordant sub-division. The close proximity of the proposed dwelling to existing roadside boundaries would require removal of mature trees and planting and this would have the effect of revealing an awkward building relationship to the street. This will be exacerbated by the positioning of both dwellings, the irregular shape of both sites and the contrasting designs of the buildings. I therefore consider that planning permission should be refused on visual grounds.

## 7.5. **Appropriate Assessment**


7.5.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise.

## 8.0 **Recommendation**

8.1. It is considered that the proposed development should be refused for the reasons and considerations hereunder.

## 9.0 Reasons and Considerations

It is considered that the proposed development, taken together with the 'parent' dwelling at No. 1 the Rise, by reason of their size, layout, design, bulk and prominent position, together with the requisite removal of boundary planting, would form an imbalanced, awkward and visually incongruous relationship on the streetscape that would negatively impact on the character of the existing dwelling and the visual amenities of the surrounding area and property in the vicinity. The proposal would, therefore, contravene the zoning objective for the site and Section 12.3.7.5 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028.



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Donal Donnelly  
Senior Planning Inspector

22<sup>nd</sup> April 2022