



An
Bord
Pleanála

Inspector's Report

ABP-317605-23

Development	Modifications to previously approved application D20A/0471 for dwelling
Location	Rear of 1 Woodley Park, Kilmacud, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D23A/0322
Applicant(s)	Pauline Power
Type of Application	Planning Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Eucemia O'Leary, Mary O'Leary & Brian McManus
Observer(s)	None
Date of Site Inspection	18 th September 2023
Inspector	Bernadette Quinn

1.0 Site Location and Description

- 1.1. The site comprises the northern section of the rear garden of no. 1 Woodley Park, which contains a two-storey semi-detached house located on a corner plot at the junction of Woodley Park (facing south) and Sweet Briar Lane to the side (east). No. 1 Woodley Park has a large single-storey extension to the eastern side. The site area is stated as 0.0176 hectares.
- 1.2. The site is bounded by residential properties to the north, south and west with the public road (Sweetbriar Lane) to the east. The area is characterised by two-storey semi-detached houses with a number of detached infill houses located throughout the area, including on the site immediately to the north of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development comprises modifications to previously approved planning application D20A/0471 / ABP-308255-20 to include:
 - the omission of basement level in its entirety including external courtyard and stairs, and ground level light to front
 - extending previously approved ground floor footprint to south boundary with pitched roof over
 - an increase in height above ground level from 6.3m to 6.8m
 - a decrease in floor area from 145 sq.m. to 123.2 sq.m.
 - the construction of new dormer window to roof to front (east) elevation
 - omission of chimney to north, modifications to ground floor and dormer roof space internal layouts and modifications to proposed rooflights and elevational treatment.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 9 no. conditions. Condition 1 requires that, save for the permitted amendments, the development shall be carried out in accordance with planning permission D20A/0471. Condition 2 requires the proposed velux roof lights shall be fitted, and permanently maintained, with centre hung, swivel type window openings in the interest of residential amenity. Condition 3 relates to the submission of details relating to soakaway for surface water drainage for the existing dwelling on site. Condition 4 relates to rain water harvesting specification for proposed dwelling. Condition 5 requires parking / hardstanding areas to be in accordance with the recommendations of the Greater Dublin Strategic Drainage Study.

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 development does not adversely impact on the residential amenity of adjacent properties by reason of overshadowing, overlooking or overbearing appearance and does not detract from the character of the surrounding area.

3.2.2. Other Technical Reports

Drainage Planning report states no objection subject to conditions.

3.3. Prescribed Bodies

None.

3.4. **Third Party Observations**

2 objections to the proposal received by the planning authority are on file for the Board's information. One of these was from the third party appellants and a second objection was submitted from the adjoining neighbour to the west. The issues raised are comparable to the issues raised in the third party appeal.

4.0 **Planning History**

Subject Site

P.A. Ref. D20A/0471 / ABP-308255-20 Dun Laoghaire Rathdown County Council granted permission for construction of a two-bedroomed single storey over basement dwelling. Following a third party appeal An Bord Pleanála granted permission for this development subject to conditions on 09/12/2020. This permission relates to the same site boundary and includes the same surface water arrangements as that proposed on the appeal site.

P.A. Ref. D18A/0092/ ABP Ref. 302741-18 permission refused by Dun Laoghaire Rathdown County Council and An Bord Pleanála on 29/01/2019 for a dwelling. The reason for refusal referred to the inadequate provision of private amenity space.

Adjoining site to north:

P.A. Ref. D03A/10919 permission granted for a two-storey detached house to the eastern side of no. 168 Lower Kilmacud Road; this dwelling has been constructed on the site immediately to the north of the subject site.

P.A Ref. D22A/0225 Permission granted 21/07/2022 for single storey extension incorporating granny flat at dwelling at 168 Lower Kilmacud Road (property located immediately north of appeal site).

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Dún Laoghaire Rathdown County Development Plan, 2022-2028 is the statutory development plan for the area. It has regard to national and regional policies in respect of infill development within existing built-up areas.
- 5.1.2. The site is zoned Objective 'A' residential with the objective to: "provide residential development and improve residential amenity while protecting the existing residential amenities" under which residential development is listed within the 'Permitted in Principle' category of this zoning objective.
- 5.1.3. Within the development plan Section 12.3.7.5 relates to Corner/Side Garden Sites and Section 12.3.7.7 relates to Infill residential development.

5.2. Natural Heritage Designations

None in the vicinity of the site.

5.3. Environmental Impact Assessment – Preliminary Examination

- 5.3.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

One third-party appeal has been submitted by Eucemia O’Leary, Mary O’Leary & Brian McManus of 168 and 168a Lower Kilmacud Road which adjoin the appeal site immediately to the north. The main points raised may be summarised as follows:

Nature and Scale of Development:

- Development is in breach of Development Plan Standards, is back land in nature and overdevelopment of this site.
- Proposal on a restricted site is contrary to existing pattern of development and would set an undesirable precedent for the area.
- Objects to the principle of a dwelling on this site.
- Concerns in relation to height, bulk, scale, massing of development.
- Proposal is out of character with the pattern of development in the area, is contrary to the visual amenities of the area and will set an undesirable precedent.
- Development Plan standards for back land development relating to distances and garden size including 22m separation distance have been ignored.

Impacts on Adjoining Properties:

- Proposal will dominate the aspect of appellants properties resulting in overbearing impact, concerns due to location of development adjacent to boundary wall of adjoining properties and proximity and massing.
- Concerns relating to overshadowing, loss of daylight, sunlight and views as well as visual and acoustic impact on appellants homes and gardens. References Urban Design Manual (May 09 Part 1).
- Overlooking as a result of roof windows and proximity of proposed elevations to adjoining properties. DLR planning officers report failed to consider impact of proposed windows in roof.

- Concerns in relation to open space not in compliance with development plan standards. Rear garden depth of 4 metres will result in negative impact on amenity of adjoining properties.

Surface Water Drainage:

- Drainage relies on soakaways within boundary of 1 Woodley Park which is in separate ownership.
- Condition attached to grant of permission relating to drainage cannot be achieved raising concerns relating to flooding.
- Refers to inaccuracies in drainage report submitted by applicant.
- Impact of removal of vegetation and installation of artificial grass and paving at 1 Woodley Park on drainage capacity.

Traffic Safety

- Proximity of site to junction of Sweet Briar Lane and Lower Kilmacud Road.

Procedural Issues and Other Matters:

- Appellants concerns not addressed by Planning Authority
- Refers to previous refusal on site and previous An Bord Pleanála planning inspectors report relating to a former planning application on this site.
- Due process not followed resulting in inadequate assessment by planning authority and considers planning application should be assessed as a new application rather than modifications to previous application.
- Site sold for commercial gain and new owner not registered.

6.2. Applicant Response

A response was received from the first party which refutes the grounds of appeal. The response outlines that the reason for omitting the basement relates to construction costs and considers changes proposed are minimal. Correspondence from Raymond G. Brennan, chartered civil engineer is included in support of omission of basement.

6.3. **Planning Authority Response**

Refers to the planner's report and considers that the grounds of appeal do not raise any new matters which would justify a change of attitude to the proposed development.

6.4. **Observations**

None received.

7.0 **Assessment**

I consider that the main issues in this appeal are as follows:

- Nature and design of development
- impacts on adjoining properties
- surface water impacts
- traffic safety
- other matters
- Appropriate Assessment screening

7.1. **Nature and Design of Development**

7.1.1. I note that permission was granted on this site for an infill dwelling by the planning authority and An Bord Pleanála under planning permission reference D20A/0471 / ABP-308255-20. The principle of a dwelling on this site has been accepted and the planning application to which this appeal refers is for modifications to the parent permission. This assessment is therefore restricted to the modifications only and will not address the already permitted elements of that permission.

7.1.2. The subject site is zoned 'Objective A' which seeks to 'provide residential development and improve residential amenity while protecting the existing residential amenities'. I consider that the principle of alterations to a previously permitted dwelling is in

accordance with this zoning objective, subject to other planning considerations being satisfied.

- 7.1.3. The subject planning application seeks amendments to this permission to increase the permitted ridge height from 6.3 m above ground level to 6.8m above ground level resulting in an increase in height of 0.5 metres. It is proposed to accommodate habitable floor space (two no. bedrooms and a bathroom) within the roof space. The proposed modifications also seek to extend the footprint of the proposed dwelling to the south by 2.8m so that part of the side elevation of the dwelling now adjoins the boundary wall with the rear garden of No. 1 Woodley Park.
- 7.1.4. I note the planning history on the site and that there are no objectives in the development plan to protect or preserve views in the vicinity of the site. The prevailing pattern of development in the immediate vicinity of the site and in the wider area is of two storey houses with some single storey dwellings to the south east on the opposite side of the road.
- 7.1.5. The proposal would not be visually incongruous or dominant at this location and I do not consider the proposal to be out of character with existing development in the vicinity nor would it detract from the character of the area to such an extent as to warrant a refusal of permission. I consider that the revised height is not excessive and within an urban context is acceptable and will not adversely impact on the visual amenities of the area.
- 7.1.6. I note that the development complies with the standards set out in S.12.3.7.5 of the Development Plan relating to infill / corner sites and that the requirement for 22m distance relates to opposing rear windows at first floor and is not relevant to this application. I do not consider a minimum rear garden depth of 11m to be required for this development. I am satisfied that the proposed modifications are acceptable in principle.

7.2. Impact on Adjoining Properties

Overlooking

- 7.2.1. The appeal raises concerns that the impact of overlooking has not been considered by the Planning Authority. Having reviewed the drawings submitted I note that any potential overlooking that might arise would be from first floor windows and the introduction of habitable space to the first floor.
- 7.2.2. I consider that any overlooking from the proposed upper floor dormer window serving the first floor bedroom on the front elevation would be acceptable and would not give rise to privacy issues being located on the front elevation facing the public road.
- 7.2.3. A velux roof window is proposed on the south roof slope serving a bedroom and is set back from No. 1 Woodley Park by 4.9 m from its rear boundary and by 11.8 m from its rear façade. Noting the angle of this window within the roof slope and the set back from adjacent property, I do not consider that this window will give rise to excessive overlooking. The planning authority has included in condition no. 2 a requirement that the proposed velux roof lights shall be fitted, and permanently maintained, with centre hung, swivel type window openings in the interest of residential amenity. The drawings submitted provide for a standard velux style roof window and as such I do not consider it necessary to include this condition.
- 7.2.4. Two windows are proposed set within the northern roof slope facing the appellants' properties. One of these is located above the stair well and as such will not result in any overlooking. A second window on the northern roof slope serves a bathroom and is located on the boundary with the dwellings at 168 and 168A Lower Kilmacud road. Noting the use of this room as a bathroom, I am satisfied that any concerns relating to overlooking can be addressed by condition. Should the board decide to grant permission I recommend that a condition be attached requiring that this window shall be located at a high level to avoid overlooking into adjoining properties.
- 7.2.5. In conclusion, I have considered the impacts of the development on existing properties, and I do not consider that the proposal would seriously detract from the privacy of surrounding properties by reason of overlooking.

Overshadowing

- 7.2.6. In terms of impacts on daylight and sunlight, I note the appeal raises concerns that no Sunlight, Daylight and Shadow Analysis Report has been submitted.
- 7.2.7. I note the orientation of the site, with the proposed development located due south of the appellants' properties, east of the rear garden of No. 3 Woodley Park and north of No. 1 Woodley Park. I note the size of the rear gardens serving existing properties surrounding the site and I consider any potential impacts from the increase in roof height by 500 mm above those arising from the previously permitted development on this site would be unlikely to result in significant overshadowing on adjoining gardens.
- 7.2.8. I consider that the potential impact of overshadowing on existing residents is not significantly adverse, and I am satisfied that a refusal of permission is not warranted in this regard.

Overbearing Impact

- 7.2.9. The previously permitted layout on this site provided for a similar design to the modifications proposed in which the permitted dwelling abuts the northern boundary wall. The layout has been revised so that the footprint of the dwelling has been extended so that it now also adjoins the boundary wall to the south. A section of the side wall of the proposed dwelling measuring a width of 5.6 m is now closer to 1 Woodley Park, located 7 metres from its rear façade. I consider this amendment to be acceptable and note that there will be no additional impact in this regard on the appellants property in terms of proximity as the distance from the proposed south side elevation to the rear of No 168 and 168A has not changed from that already permitted. I also consider that this proposed amendment will not result in additional impacts on No. 3 Woodley Park above those already permitted.
- 7.2.10. The proposed amendments seek to increase the ridge height from 6.3 m above ground level to 6.8m above ground level resulting in an increase in height of 0.5 metres. I am satisfied that the proposed height, at 6.8m above ground level is modest, is lower than the overall height of existing dwellings surrounding the site, will not result in an overbearing impact and I consider the height acceptable for this infill site.
- 7.2.11. In terms of impacts on residential amenity, I am cognisant of the relationship of the proposed development to neighbouring properties. In my opinion, separation

distances proposed are typical of what would normally be anticipated within such an established, urban area with existing properties. This will ensure that any impacts are in line with what might be expected in an area such as this. I am satisfied that the proposal would not be overbearing or domineering in appearance as to adversely impact on the residential amenities of surrounding properties.

Open Space

- 7.2.12. I note in planning permission reference D20A/0471 / ABP-308255-20 that adequate private amenity space was deemed to be retained for no. 1 Woodley Park. The site area of the appeal site is not proposed to be altered and as such no amendments to the private open space serving the host property at 1 Woodley Park are proposed. As such I do not consider any new issues are raised in relation to private open space serving 1 Woodley Park.
- 7.2.13. The rear garden of the revised proposal to which this appeal relates measures 48.5 sq.m. and omits the basement level courtyard. I am satisfied that the private open space to the rear provides for sufficient usability and quality and complies with Table 12.10 of the development plan which requires a minimum of 48 sq.m. private open space for a 2-bed dwelling.

Conclusion

- 7.2.14. The height and scale of the proposed dwelling is considered acceptable. The proposal would not unduly overbear, overlook or overshadow adjoining properties, does not result in overdevelopment of this site and would not seriously injure the amenities of property in the vicinity of the site. I am satisfied that impacts on privacy as a result of the proposed modifications do not warrant a refusal of permission.

7.3. Traffic Safety

- 7.3.1. The proposal does not result in any amendments to the previously permitted parking or access arrangements. I therefore consider that no new issues arise in this regard.

7.4. Surface Water Disposal

- 7.4.1. The application does not propose any amendments to surface water drainage arrangements and the report of the local authority drainage section raises no concerns in relation to surface water drainage.
- 7.4.2. I am satisfied that the modifications do not raise issues in relation to surface water drainage and that drainage matters can be addressed by way of condition.

7.5. Other Issues

- 7.5.1. I am satisfied that a planning application for amendments to previously approved development is an acceptable approach, has been submitted in accordance with the requirements of the Planning and Development Regulations 2001 (as amended) and allows for a full assessment of the proposed development. I am satisfied that third parties and the planning authority have been given the opportunity to review the proposed development.
- 7.5.2. Having reviewed the drawings I note a number of discrepancies relating to the velux roof windows not shown on all plans and elevations. Should the board decide to grant permission I consider this matter can be addressed by condition.
- 7.5.3. I do not consider that selling the site or registration of ownership are relevant planning issues.

7.6. Appropriate Assessment Screening

- 7.6.1. Having regard to the nature of the application, the minor scale of the development in the context of the permission, and to 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 have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. Having regard to the above, and based on the following reasons and considerations, I recommend that permission be granted subject to conditions.

9.0 Reasons and Considerations

Having regard to the existing permission on the site, the design and scale of the proposed development, the pattern and character of development in the area, and the provisions of the Dun Laoghaire-Rathdown County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in accordance with the zoning objective for the site, would not detract from the visual amenity of the area, would provide an acceptable standard of residential amenity for the prospective residents and would not seriously injure the residential amenity of surrounding properties. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The terms and conditions of the parent permission granted for the development under planning register reference number D20A/0471 / ABP-308255-20 shall be complied with, unless they are modified by the terms and conditions of this permission.

Reason: In the interest of clarity.

3. The proposed development shall be amended as follows:

- a) The roof light window on the northern roof slope serving the first-floor bathroom shall be positioned at a minimum height of 1.5 metres above floor level so as to avoid overlooking.
- b) Plans and elevations showing first floor roof light windows serving bedroom 1 and bathroom shall be submitted for the written agreement of the planning authority.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to clarify the permission and in the interest of visual and residential amenity.

4. Water supply and drainage requirements, including surface water collection and disposal, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Bernadette Quinn
Planning Inspector

17th October 2023