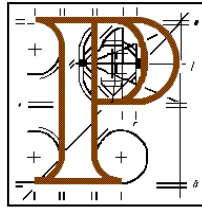


**An Bord Pleanála**



**Development:** **16 apartments on four floors, basement car parking and associated site works, Albany Lodge Shanganagh Road, Shankill**

**Planning Application**

Planning Authority: Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref: D05A/1348

Applicant: Jones Kelly Architects

Type of Application: Permission

Planning Authority Decision: Grant

**Planning Appeal**

Appellant(s) (1) Muriel Johnson  
(2) Cor Ruigrok & Linda Farren

Observers John Perry TD

Type of Appeal: 3<sup>rd</sup> -v-Grant

Date of Site Inspection: 08/02/07

**Inspector** Colin McBride

## **1. SITE LOCATION AND DESCRIPTION**

- 1.1 The subject site which has a stated area of 0.173 is located on Shanganagh Road, to the south of Ballybrack Village and to the north of Shankill. The subject site is accessed directly from Shanganagh Road and is currently occupied by a two-storey detached dwelling (Albany Lodge). The subject site is within an established residential area. To the north of the subject site and fronting onto Shanganagh road is a row of two-storey semi-detached/detached dwellings (Albany Wood). To the north east of site and to rear of Albany Wood is development of two-storey terraced dwellings (Domville Grove). To the south and east of the subject site is a cul de sac development of 12 detached two-storey dwellings, Albany Court also accessed off Shanganagh road to the south of the subject site. The dwellings in Albany Court are similar in design as the dwelling on the subject site and seem to have been constructed at the same time. On the opposite side of Shanganagh road (west) is a development of three-storey terraced dwellings, Sheelin Hill. On the opposite side of Shaganagh Road, north west of the site is a recently constructed apartment development (Ridge Hall) consisting of contemporary apartments arranged in three and four-storey blocks. Existing boundaries on site include a stone wall and trees and hedgerow along the road side boundary, mature trees along the northern boundary, a block wall at the north east corner and along the rear boundary of the site (east) with mature trees inside the boundary of the subject site and along the southern boundary there is a block wall for part of the boundary and wooden panel fencing along the remainder with existing mature planting on the subject site and within the adjoining properties to the south (Albany Court). The ground level falls moving north south along Shanganagh Road with the adjoining detached dwelling to north (Albany Woods) at a higher level and the dwelling immediately to the south (Albany Court) at a lower level.

## **2. PROPOSED DEVELOPMENT**

- 2.1 The proposed development entails the construction of 16 apartments over four floors. Amendments to the development to comply with conditions result in a loss of two apartments giving a total of 14 units approved. A basement level is to be provided with 17 car parking spaces and vehicular access from Shanganagh Road. To comply with conditions there will be five apartments at ground floor level, four on the first and second floor level and a single apartment at third floor level. All apartments are two bedroom units varying in floor area from 57.57 sq metres up to 106 sq metres. All apartments have an individual balcony area either on the front or rear elevation with the penthouse apartment served by a large roof terrace.

The proposed development is a T shaped block. The site reduces in level moving north to south. The development is split into two distinct blocks reflecting the change in levels from north to south. The main part of the development and the

largest block is adjacent the northern boundary of the site and has a parapet level of 8.5 metres above ground level. This part of the building has an annexe extending to the rear similar in scale and design with a brick finish. The building steps down 0.9 metres to a parapet level of 9.1 metres (lower ground level moving southwards). This block has a cut stone external finish. A penthouse level is provided extending over the roof of the two blocks with a roof terrace to the north, west and south. This level has a ridge height of 11.9 relative to the ground level at the southern elevation. The penthouse level is to have an external finish of pressed metal panels. The front elevation is highly glazed with the windows (aluminium frames) serving the living areas of the apartment located on this elevation. On the northern elevation on each level there are high level windows serving the bedrooms and frosted glass in windows serving the hallways and bathrooms of the apartments. The bedroom windows are corner windows with the portion facing directly north frosted. On the southern elevation there are small frosted glass windows serving bathrooms on each level. The rear elevation features windows on each level serving bedrooms and frosted glass windows serving bathrooms. The annexe to the rear is highly glazed as it has windows serving the living space of the apartments on each level. At first and second floor level the elevation steps way from the boundary with balconies at first and second floor level and 1.7 metre high opaque screens to prevent overlooking. On the southern and north elevation of the rear annexe are the bedroom windows. The penthouse level has windows on all sides with the majority of glazing along the western elevation.

The northern elevation is 7 metres from the northern boundary of the site with the southern elevation 4 metres from the southern boundary of the site. The annexe to the rear is 12.5 metres from the northern boundary and 9 metres from the southern boundary. At its closest the rear elevation is 12 metres from the eastern boundary.

A vehicular access point is proposed at the south western corner of the site. This is a ramped access providing access to an underground car park with 17 spaces. A pedestrian entrance is provided adjacent the vehicular entrance. Two refuse stores are proposed, one adjacent the vehicular entrance and the southern boundary of the site and one on the northern side of the vehicular entrance along the road frontage of the site. These refuse stores feature a 0.5 metre high stone wall and a 1.2 metre high wooden panel fence on top.

In relation to amenity space all apartments feature a balcony area or ground floor terrace located on the front or rear elevation. Some ground floor apartments which have a dual aspect (east and west) have two defined terrace areas. In term of public open space a communal area is provided to the rear which includes a BBQ area at the north eastern corner and a play area at the south western corner of the site.

In terms of boundary treatment the existing solid boundaries of the site are to be retained including the block walls at the north eastern corner adjoining Domville

Grove, along the rear boundary and southern boundary with Albany Court. The landscaping scheme submitted notes that the leylandii trees along the rear boundary are to be retained with additional screen planting. Along the northern and southern boundary the existing trees are to be removed and replaced with new screen planting. Some of the existing hedgerow inside the roadside boundary is to be retained with additional planting. The existing granite wall along the roadside boundary is to be retained and reconstructed where necessary to cater for the new vehicular entrance point and pedestrian entrance.

### **3. PLANNING HISTORY**

- 3.1 No planning history on the subject site.
- 3.2 **D02A/1111:** Permission granted to Coastline Holdings Ltd for mixed-use development including retention/alteration of protected structure including demolition of rear two-storey extension, change of use to medical consulting rooms, restaurant/café and 8 no apartments at ground floor level. Construction of 75 apartments in 3 blocks, basement and surface car parking. This development has been constructed (Ridge Hall) and is located to the north west of the site on the opposite side of Shanganagh Road.

### **4. DEVELOPMNT PLAN POLICY**

- 4.1 The subject site is zoned ‘Objective A, to protect and/or improve residential amenity’ under the Dun Laoghaire Rathdown County Development Plan 2004.
- 4.2 Chapter 5 of the Dun Laoghaire Rathdown County Council Development Plan 2004 outlines the policy in relation to residential development including the qualitative and quantitative standards for apartment developments (attached).

### **5. RESIDENTIAL DENSITY-GUIDELINES FOR PLANNING AUTHORITIES**

- 5.1 Chapter 3 outlines ‘appropriate locations for increased densities’. Section 3.3.1 in relation to ‘Infill Development’ is relevant in this case (attached)

### **6. PLANNING AUTHORITY REPORTS**

- 6.1
  - a) Roads Traffic & Forward Planning Division (24/11/05), no objections to proposed development.
  - b) Parks Department (24/11/05) recommended submission of a tree survey.
  - c) Environmental Services Department (05/12/05) recommend further information in relation foul sewer and water supply.

- d) Parks Department (07/07/06) indicated no objection to proposed development subject to conditions including implementing the submitted landscaping scheme and measures to protect existing trees on site.

## 7. PLANNING AUTHORITY'S DECISION

- 7.1 The planning authority granted permission with 23 conditions attached. Most conditions are standard in nature, however of note is the following condition.

### Condition no. 2

Prior to the commencement of development the applicant shall submit for, written agreement of the Planning Authority, revised drawings amending the proposed development as follows:

- (i) At first and second floor level the east-facing elevation shall be setback an additional 4-metres from the facing site boundary.
- (ii) The remaining floor area of apartment nos.7 and 9(8) shall be combined to form 1 no. apartment unit and remaining area of apartment nos. 12 and 13 shall also be combined to form 1 no. apartment unit.
- (iii) A balcony of 2.5-metres x 6-metre dimension with screens shall be provided at first and second floor levels to the resulting new apartment units, external to the relocated east elevation.
- (iv) The said balconies shall be provided with fully opaque screens on all external sides to a height of 1.7m above relevant finished floor level.
- (v) The east-facing level of the proposed penthouse level apartment shall be setback an additional 3.5-metres from the facing boundary.
- (vi) A private roof terrace shall be provided to the west side of the proposed penthouse unit only and no access shall otherwise be provided to the roof above second floor level.
- (vii) The parapet height at the eastern projecting portion of the proposed structure shall be raised to 1,6m above proposed finished penthouse floor level.
- (viii) The window to the south eastern most bedroom to apartment nos.6 and 11 (on first and second floor levels respectively) shall be redesigned to face north eastwards only.
- (ix) The window(s) to north-easternmost bedroom to apartment nos. 10 and 15 (on first and second floor levels respectively) shall be redesigned to face south-eastwards only.

**Reason:** In order to prevent excessive overlooking and visual intrusion on adjoining residential properties in the interest of proper planning and sustainable development.

Over the course of the application further information and clarification of further information was requested. The subject of these requests included concerns regarding the impact of the development on adjoining residences and the need for measures to ensure no loss of privacy or overlooking. Proposals to reduce the height to step down and reflect the sloping nature of the site. A tree survey and

detailed landscaping scheme including the identification of trees for retention was also required.

The final planning report (24/07/06) indicated that the applicant had addressed the issues raised as further information and subsequently clarification of further information, however the issue of excessive overlooking and visual intrusion was still a concern. Amendments detailed under condition no. 2 were recommended to address these concerns. Subject to these amendments to be agreed prior to the commencement of development, the proposed development was deemed acceptable at this location, would not detract from the amenities of the area and be consistent with the objectives of the development plan.

## **8. GROUNDS OF APPEAL**

8.1 An appeal has been lodged by Muriel Johnson, 10 Albany Road, Shanganagh Road. The grounds of appeal can be summarised as follows.

- Application address incorrect, subject site is in Killiney not Shankill as stated in the application.
- The proposed development is out of scale and character with the existing dwellings at this location which are two-storey detached and semi-detached dwellings.
- The proposed development sets a precedent for more development of this type in the area, as there are other sites in the area similar to this one.
- The scale of development is too large for the site and will reduce light to the appellants dwelling and garden.
- The intensity of development will have a negative impact through loss of privacy and increased level of noise. Construction work will also cause significant disturbance in the area.
- The provision of 17 car parking spaces is insufficient to cater for the proposed development. There is a possibility cars will park on Shanganagh road and therefore be a traffic hazard as it is a busy road with narrow footpaths.
- The increase in traffic associated with the proposed development will add to existing congestion at the traffic lights in Ballybrack Village. The development is located on a bend in the road where the increased level of traffic entering and exiting the site increases the possibility of an accident.

8.2 An appeal has been lodged by Frank O’Gallaachoir & Associates Ltd on behalf of the residents of no.s 4, 9, 10 and 11 Albany Court and no. 11 Albany Woods. The grounds of appeal can be summarised as follows.

- The design, scale and type of development is out of character with the established pattern of development at this location which is low density suburban style housing.

- The proposed development by virtue of its bulk, scale and proximity to the adjoining dwellings and their private amenity space will have a negative impact through overlooking and overshadowing.
- The existing development of Ridge Hall on the opposite side of Shanganagh Road should not be used to justify the density and scale of the proposed development. The subject site is much smaller in size and has a different context due to the surrounding pattern of development.
- The proposed development is contrary to the recommendations of the 'Residential Density – Guidelines for Planning Authorities, 1999' in that it fails to protect the amenity of adjoining residences, the level of and quality of amenity space is poor and there is no variation in house type.
- The subject site is small and the proposed development is overly large and unsympathetic in terms of scale, height and density and therefore inappropriate at this location.

## 9. **OBSERVERS**

9.1 John Perry TD has submitted an observation on behalf of Cor Riugrok & Linda Farren, no. 9 Albany Court.

- Subject site is part of Albany Court and development which alters its character should not be permitted.
- Despite changes to the scale of the proposed development the development is still excessive in scale.
- The existing trees on site are in poor condition and do not provide sufficient screening to protect the amenities of the adjoining properties.

## 10. **RESPONSES**

10.1 Response from Dun Laoghaire Rathdown County Council notes that there are no further comments and refers to the planners report associated with the application.

10.2 A response has been received from the applicants, Jones & Kelly Architects in relation to appeal submission from Muriel Johnson.

- The address of the development is correct.
- The site is sloping and the design takes account of the adjoining dwelling in terms of height and scale well as separation from the boundary of the appellants dwelling.
- The development complies with Development Plan requirements and is similar in height and scale to adjoining development.
- The building has been stepped on site to reflect the sloping nature of the site. The basement level is substantially below ground level leaving the development three floors over ground level.

- Construction work will take place during normal work hours. The appellants property will not suffer loss of privacy or overlooking due to existing screen walls and its higher level.
- The reduced level of apartments as a result of condition no.2 means there is an excess of car parking spaces available to serve the proposed development.
- There will be no adverse impact on traffic movement within the area or at the traffic lights in Ballybrack village.

10.3 A response has been received from the applicants, Jones & Kelly Architects in relation to appeal submission from the residents of Albany Court and Albany Woods.

- The design and scale of the development takes into account the existing pattern of development and character of the area. The footprint of the development is only 25% of the site area with a good level of public open space.
- The additional setbacks and screening required in condition no. 2 as well as the landscaping proposals will ensure no overlooking of adjoining properties and therefore adequate protection of their residential amenities.
- There is precedent for this type of development within the immediate vicinity of the site. The site is large enough to cater for the proposed development.
- The development is in keeping with the recommendations of the ‘Residential Density-Guidelines for Planning Authorities’ in relation to its overall design and layout and the fact it takes into account the residential amenities of adjoining residential properties.
- The development is sited away from the northern and eastern boundaries of the site to address concerns regarding overlooking. There are sufficient separation distances between the proposed development and adjoining properties to ensure privacy is maintained.

10.4 A response has been received from the residents of no.s 4, 9, 10 and 11 Albany Court and no. 11 Albany Woods.

- The proposed development is excessive in height and out of character with adjoining development. The development is part of Albany Court and there are covenants/restriction in respect of development within Albany Court.
- The proposed development will result in overlooking and loss of privacy and the measures proposed including opaque screens on balcony areas are not satisfactory.
- There is no precedent for development of this type on the eastern side of Shanganagh Road and the Ridge Hall development should not be used to justify the level of development.
- The proposed development is excessive in height relative to properties to the south and east.

10.5 A response has been received from Muriel Johnson, 10 Albany Woods.



- The proposed development is out of character with adjoining development and cannot not be compared to the Ridge Hall development to the north west.
- The proposed development will reduce light to the appellants property and notes that the description of the boundaries between the site and no. 10 Albany Woods is incorrect.
- The proposed development will set an undesirable precedent, is out of character with adjoining development and will have a negative impact on the privacy of adjoining dwellings.

## 11 ASSESSMENT

The proposed development meets the quantitative standards for levels of amenity space, car parking and apartment size set down under the Dun Laoghaire Rathdown County Council Development Plan, 2004. I do not consider that the development as proposed will result in traffic congestion or a traffic hazard at this location. In this regard it should be noted that the level of off-street car parking provided is in excess of development plan requirements for development of this type.

The appellants note that the subject site and existing dwelling is part of Albany Court and has covenants/restrictions regarding new development. This is legal issue for the applicant and does not preclude the Board granting permission for development on the subject site.

Having reviewed the information and visited the site I consider that the main issues relating to this appeal are the following....

- Principle of development, character of the area
- Residential Amenity.

**Principle of development and character of the area:** Under development plan policy it is an objective 'to promote higher residential density provided that additional development respects and is not injurious to the existing built form, scale, character, heritage and residential amenity of the area concerned'. The 'densification of existing built-up areas' including the 'the development of mews buildings and other infill accommodation which is in harmony with existing buildings' is encouraged.

I consider that, in principle, the development of increased residential density on this site is acceptable given the size of the site serving a single detached dwelling. I would also note that although the dwelling was constructed as part of Albany Court the dwelling is detached from the rest of the dwellings in Albany Court and has its own road frontage and vehicular access off Shanganagh Road. What is of concern in relation to the proposed development is the fact that there is a strong pattern of development at this location for suburban style (detached, semi-detached or terraced two-storey dwellings) with a relatively low density. The development has a density of 92 units per hectare which is high relative to the density on the adjoining sites to the north and south. The applicant points to the fact there is development of this type in the area in the form of the Ridge

Hall, an apartment development located on the opposite side of Shanganagh road (north west) as justification for this level of development.

I do not consider that this site merits comparison with the Ridge Hall development which is a much larger development on a corner site (Ballybrack Crossroad) which is more capable of setting its own density. The subject site is an infill site surrounded by low density housing. I consider that the transition in density to be abrupt and the bulk and scale of the development to be inappropriate at this location and to have a detrimental impact on residential amenities of adjoining properties and the overall quality of the proposed development. The proposed development occupies a significant footprint on the site and is located in close proximity to the boundaries of the site. The design and layout of the development is such that there is a significant amount of windows on all elevations of the proposed development. The applicant notes that the development steps down in height to match the reduction in levels north south. The proposed development has a ridge height similar to the ridge height of the adjoining dwellings to the north which is has a higher floor level and a much higher ridge height than the adjoining dwelling to the south. The ground level of the site is roughly similar to that of the gardens of the dwellings within Albany Court immediately to the rear of the subject site. As noted above I would consider a higher density could be accommodated on this site but not at the level proposed and would consider that the form, scale and type of development inappropriate on an infill site of this type. The remedial measures needed to alleviate direct overlooking illustrate how uncomfortable the proposed development is in relation to its surroundings. I do not consider that the measures proposed are totally successful in dealing with the impact on the residential and visual amenities of the area and will impact on the overall quality of the proposed development.

The design and character of the proposed development is contemporary in style and subject to no impact on the residential amenity of adjoining properties is an acceptable style within the area. The subject site is not within a designated conservation area and is at a location which currently features a mix of architectural styles.

**Residential amenity:** As noted above I consider the overall form and bulk of the development to be out of character at this location. The appellants raise concerns that the proposed development will result in overlooking, overshadowing and will have a generally overbearing impact on the residential amenities enjoyed by the adjoining properties. The applicant has proposed to address these issues by retaining existing mature planting and providing additional planting as well as screening balconies with frosted glass screens. I consider that the measures proposed illustrate the exceptional and dramatic measures required to prevent the development from having a negative impact by virtue of its bulk on site, proximity to the boundaries of adjoining properties and its overall height. Although the measures proposed will eliminate direct overlooking in most cases I do have concerns regarding the impact of such measures.

In relation to screen planting I have concerns that the reliance on planting as a measure to prevent overlooking is not a completely reliable measure to protect residential amenity of adjoining properties. The level planting needed to prevent overlooking is significant due

to the size of the proposed development, its proximity to the boundaries of adjoining properties and the level of windows on all facades of the proposed development. I would also be concerned that the height of planting necessary to screen the development will reduce the level of light to windows in the proposed development particularly at a lower level as well to the open space areas to the rear of the proposed development.

1.7 metre high opaque screens are to be erected on the balconies on the rear elevation. I have concerns regarding this measure as it impacts on the quality of the proposed development. The applicant notes that separation distance between the proposed development and adjoining dwellings are significant. The majority of the separation distance is provided within the adjoining properties and their associated garden areas. Having regard to the excessive bulk and scale of the proposed development and its proximity to the adjoining properties, the proposed development will have an overbearing visual impact and will result in unacceptable overlooking of the adjoining residential properties. The measures proposed to prevent overlooking are insufficient and impact on quality of the proposed development. The proposed development will therefore be injurious to the visual and residential amenities of the area.

## **RECOMMENDATION**

I recommend that permission be refused for the proposed development.

## **REASONS AND CONSIDERATIONS**

1. It is the policy of the Dun Laoghaire County Council Development Plan 2004 ‘to promote higher residential density provided that additional development respects and is not injurious to the existing built form, scale, character, heritage and residential amenity of the area concerned’. The proposed development by virtue of its excessive density, bulk, scale and unsympathetic design is out of character with the established pattern of development and will have an overbearing visual impact at this location. The proposed development would therefore be contrary development plan policy and contrary to the proper planning and sustainable development of the area.
2. The level of screening and planting required to prevent overlooking of adjoining properties is significant. The measures proposed to prevent overlooking also impact negatively on the quality of the amenity space provided to serve the proposed development. These measures are not sufficient to ensure that the proposed development will not have an overbearing impact on adjoining residences through overlooking and are the result of the excessive density, scale and bulk of the proposed development and its proximity to established development with a significantly lower density. The proposed development would therefore be injurious to the residential amenities of adjoining properties and would set an precedent for substandard development. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

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**Colin McBride**

19<sup>th</sup> February 2007