



## Inspector's Report

**PL 06D 238281**

### **Development**

Revisions to permission granted under PL06D. 224213 for 19 residential units in a 2-3 storey block. The current proposal comprises the replacement of 4 apartments with 4 office suites in a self-contained building along with alterations to elevations and internal layout of remaining units.

Junction of Church Road and Lane linking Church Road to Mountain View, Ballybrack, County Dublin.

### **Planning Application**

Planning Authority: Dun Laoghaire Rathdown County Council.

Planning Authority Reg. Ref.: D10A/0570

Applicant: The Anglesea Partnership.

Type of Application: Planning permission.

Planning Authority Decision:

### **Planning Appeal**

Appellant(s): Derek Haughton.

Type of Appeal: Third v grant.

Observers: None.

Date of Site Inspection: 6<sup>th</sup> May 2011.

**Inspector:** Karla Mc Bride.

## **1.0 INTRODUCTION**

### **1.1 Site and location**

The appeal site is located to the north of Ballybrack Village on the south side of Dublin and the surrounding area is characterised by a mix of residential and commercial uses. The “L” shaped site contains 3 existing houses, it slopes downwards in a north-westerly direction and it is overgrown with a mix of trees and shrubs. The site is bound to the east by Church Road; to the south by an un-named laneway which links Church Road to Mountain Villa, to the west by existing 2-storey houses at Mountain Villa and to the north by an existing detached 2-storey house and an area of open space.

The site is located within a mainly residential area and to the immediate north of a 2-storey Victorian terrace of commercial properties which front onto Church Road and the main commercial core of Ballybrack village is located to the south of this terrace.

Church Road is narrow and heavily trafficked, there is a signalised pedestrian crossing to the south of the site, there are no footpaths in the vicinity of the site and there are parking bays located along each side of Church Road in the direction of the village.

Photographs and maps in Appendix 1 serve to describe the site and location in some detail.

### **1.2 Proposed Development**

Permission is being sought to revise the permission granted under PL 06D.224213 for the construction of 19 residential units in a 2-3 storey block on a 0.19ha site:

- Replace 4 permitted apartments at nos. 7, 8, 13 & 14 with 4 office suites in a 2-storey self-contained building with ancillary facilities and service yard.
- Carry out alterations to the elevations including the elimination of balconies and relocation and resizing of window positions in the office areas.
- Minor alterations to apartment nos. 17, 18 and 19 including new access stairs to nos. 18 and 19 at second floor level, new stairs to no.19 has new separate access off the laneway to the southeast.
- Revise apartment basement layout to provide for larger storage area and provision of 17 car parking spaces.
- Eliminate unit no.1 and replace it with landscaping, bicycle storage/switch room and provide direct pedestrian footpath along the laneway to side of building linking to the unnamed laneway to the south (conditioned by ABP).
- Provide 8 surface level car parking spaces.
- Drainage and traffic reports included.

### **1.3 Planning Authority's Decision**

The Planning Authority decided to grant planning permission subject to 29 conditions.

This decision reflects the report of the County Planning Officer.

***Interdepartmental Reports:***

The Roads & Environmental Services Depts. had no objection subject to conditions.

The Housing Department had no objection subject to compliance with conditions.

The Parks and Landscape Department requested AI in relation to a landscape plan, a children's play area and a tree survey.

***Submissions:***

On letter of objection received.

**1.5 Planning history**

***Reg. Ref. 03A/0217:*** PP refused by ABP under PL06D.204010 for the demolition of 3 houses and the construction of 2 apartments in 3 blocks.

***Reg. Ref. D07A/0169:*** PP granted for demolition of all existing buildings and the construction of a 2 to 3-storey over basement apartment building with 19 units, 32 car parking spaces, widening of exiting laneway. Decision to grant upheld by APB under PI 06D.224213.

***Reg. Ref. D10A/008:*** PP refused for change of use of 5 apartments to 4 office suites. Decision upheld by ABP under PL06D.236374 for one reason related to material contravention of residential zoning objective for the site having regard to the quantum of office development proposed. The Board considered that the amount of office space open for consideration in a residential zone comprises a maximum of 200sq.m. in total rather than the size of the individual office units.

**2.0 DEVELOPMENT PLAN**

**Zoning objective:**

The site is located within an area zoned with the objective A which seeks "To protect and/or improve residential amenity" in the 2010-2016 Dun Laoghaire Rathdown Development Plan. Offices under 200sq.m. are open for consideration within this zone where the use will not have adverse effects on the residential zoning objective.

The site adjoins an area zoned NC along Church Road which seeks "To protect, provide for and/or improve mixed-use neighbourhood centre facilities."

**Transitional zones:**

Section 18.2 states that the Development Plan maps show the boundaries between zones. While the zoning objectives and development management standards indicate the different uses and densities, etc., permitted in each zone, it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones. In dealing with development proposals in these contiguous transitional zonal areas, it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone. For instance, in these zones abutting "residential areas" or abutting residential development within mixed-use zones, particular attention must be paid to the use, scale and density of development proposals in order to protect the amenities of these residential properties.

### **3.0 APPEAL**

#### **3.1 Summary**

There is one third party appeal in relation to this application from the owner of a neighbouring house and the following concerns were raised:

- Inadequate on-street car parking for commercial uses in the area, applicant's gate is often blocked by cars and bollards installed along the footpaths.
- Poor connections to public transport, too far from Dart and Luas and No.45A provides and infrequent service.
- Change of use from apartments to offices will serve to prolong the planning permission for another 5 years.
- Negative impact on residential amenity and unique Victorian character of the village and adverse impact on visual amenity.
- Overlooking from clear as opposed to opaque glass and loss of privacy.
- Disabled access arrangements to offices not indicated.
- Non-compliance with fire regulations.
- Failure to remove previous (2010) site notice from wall.
- Inappropriate change from residential to commercial zoning and precedent.
- Devaluation of applicant's property as result of commercial development.
- Absence of geological survey in relation to basement car park and impact of excavations on neighbouring foundations, request payment of a bond in the event that appellant's house collapses.
- Exact footprint of appellant's house not indicated on plans.
- Bin storage area would be located in close proximity to appellant's house.

#### **3.2 First Party response submission.**

- The principle of demolishing the existing buildings and erecting replacement development has already been accepted by the Council and ABP.
- Proposal complies with zoning objective for the area where offices are open for consideration.
- Previous proposal contained more than 200sq.m. of offices while the currently proposal does not breach this standard.
- Proposal complies with employment and transport policies and the objective to regenerate Ballybrack village.

- Proposal accessible by public transport (via Killiney Dart Station, new Luas stop at Cherrywood and the 45A and 86 buses which travel along Church Road QBC).
- Offices would provide a daytime caretaking function for the apartments.
- There are on-street-parking bays along Church Road in the vicinity of the commercial units and there is ample off-street parking in the area.
- Adequate on-site car parking provided in excess of Plan requirements.
- Possible to extend the duration of a planning permission without revisions.
- No adverse impacts on the residential amenities of the area and the proposal would enhance local amenity.
- The proposal is very similar to the previously permitted development granted under P106D.224213 although are 3 key differences in relation to fenestration, in the NW elevation which comprise (revised drawings submitted):
  - A large opening in the blank flank wall will be reduced in size and replaced with a small, higher level, narrow window.
  - A second floor bedroom window located in the central section of the building will be reduced and shifted slightly so as to occupy an offset position relative to the remaining openings.
  - Two new, high level, narrow windows are proposed in this same central section of the NW elevation.
- Willing to accept a condition which requires the use of opaque glass to a height of 1.6m above finished floor level in the NW elevation, below which no part of the window would be open-able.
- Proposal will comply with disabled access and fire regulations.
- Delay in removing the 2010 public notice was an oversight.
- No property devaluation will occur.
- Bins will contain office and not food waste therefore no impact on amenity.
- Proposal located a substantial distance from the appellant's house which will not be structurally damaged by the works.

### **3.3 County Council response submission.**

The County Council made the following observations on the grounds of appeal:

- Four commercial car parking spaces are required and 8 are provided.
- Condition attached which deals with disabled access.

- The requirement to obtain a Fire Certificate is outside the remit of planning.
- Office use is complimentary to the main residential use, the site is within a transitional zone and commercial use is considered appropriate at this location which adjoins a neighbourhood centre zone and office use is open for consideration in the A zone.
- Proposal will have no greater impact on residential amenity than the permitted development with no undue overlooking.

### **3.4 Further correspondence.**

The Third Party raised no new issues in their response to the first party submission.

The Planning Authority had no further comments to make in response to the First Party submission.

## **4.0 REVIEW OF ISSUES AND ASSESSMENT**

The main issues arising in this case are:

1. Compatibility with Development Plan zoning objectives.
2. Residential and visual amenities.
3. Vehicular access/car parking.
4. Other issues.

### **4.1 Development Plan zoning objective.**

The proposed development would be located within an area zoned Z1 for residential use within which up to 200sq.m. of office floorspace is open for consideration subject to the protection of residential amenity. The proposed development would comprise 199sq.m. of office floorspace which is compatible with this objective.

The site also adjoins an area zoned NC for mixed use neighbourhood centre uses and section 18.2 of the Plan, which deals with transitional zones, states that it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones. Section 18.2 also states that it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone and particular attention must be paid to the use, scale and density of development proposals in order to protect the amenities of the neighbouring residential properties. These issues will be assessed in more detail in the following sections of this report.

It should be noted that planning permission was refused by the Board under PL06D.236374 for the change of use from apartments (nos. 7, 8, 13, 14 and 19) to office suites. Permission was refused for one reason related to material contravention of the residential zoning objective for the area which allows for a maximum of 200sq.m. of office floorspace. The proposed development would have comprised approximately 323sq.m. of office floorspace which exceeded the 200sq.m. maximum by c.123sq.m.

### **4.3 Residential and visual amenities.**

Planning permission is being sought to carry out revisions to a previously permitted 2-3 storey, 19 unit apartment building that mainly relate to the eastern section of the permitted development which fronts onto Church Road.

#### ***Permitted development:***

Permission was granted under PL06D.224213 for a single 2-3 storey apartment block in two sections which would be c.50m long, 15.5m wide and 6.5m to 10m high.

- The eastern elevation of the 3-storey front section would respect the building line established to the south by the Victorian terrace while the narrower 2-storey front section to the north would be set slightly forward of this line.
- The northern elevation of the 2-storey front section would be located along the site boundary and within approximately 8m of the side elevation of the neighbouring 2-storey detached house at “Keem” and this elevation would comprise a plain brick wall.

- The eastern elevation of the rear section would be set back c.5m and 18m respectively from the site boundary and rear elevation of “Keem”.
- The rear elevations would be located along and within approximately 16m of the western elevations with Mountain Villa and the bulk of the southern elevation would be located along the widened laneway.

***Proposed revisions:***

Permission is now being sought to mainly carry out revisions to the 2-3 storey eastern section of the permitted development that fronts onto Church Road.

The main revisions comprise:

- Replace 4 apartments with 4 office suites in a 2-storey self-contained building with ancillary facilities and service yard.
- Carry out alterations to the elevations including the elimination of balconies and relocation and resizing of window positions in the office areas:
  - A large opening in the blank flank north facing wall will be reduced in size and replaced with a small, higher level, narrow window.
  - A second floor bedroom window located in the central section of the building will be reduced and shifted slightly so as to occupy an offset position relative to the remaining openings.
  - Two new, high level, narrow windows are proposed in this same central section of the north-western elevation.
- The applicant is willing to use opaque glass to a height of 1.6m above finished floor level in the north-western elevation and no part of the window would be open-able below this point.
- Minor alterations to apartment nos. 17, 18 and 19 including new access stairs to nos. 18 and 19 at second floor level, new stairs to no.19 with a new separate access off the laneway to the southeast.

The proposed revisions are of a very minor scale and they would not adversely affect the visual amenities of the area.

The proposed change of use from 4 residential units to 4 offices suites in the front/eastern section of the permitted development would not cause any additional adverse impact on residential amenity subject to the use of opaque glass in the side elevation as proposed by the applicant in the response submission.

The remaining revisions include:

- Revise basement layout to provide for larger storage area and 17 car parking spaces.
- Eliminate unit no.1 and replace it with landscaping, bicycle storage/switch room and provide direct pedestrian footpath along the laneway to side of building linking to the unnamed laneway to the south (conditioned by ABP).
- Provide 8 surface level car parking spaces.

The proposed revisions are of a very minor scale and they would not adversely affect the visual or residential amenities of the area.

#### **4.3 Vehicular access/car parking.**

The proposed basement and surface level car parking arrangements are considered acceptable and in line with Development Plan standards. There are several car parking bays located along Church Road in the vicinity of Ballybrack Village in addition to a surface level off-street car park and the village is well served by a bus route.

The proposed vehicular access arrangements to the basement car park via the unnamed laneway are the same as the arrangements permitted under PL06D.22421.

The un-named laneway should be widened and a pedestrian footpath provided in accordance with the terms and conditions attached to the planning permission granted under PL06D.224213.

#### **4.4 Other issues:**

***Environmental Services:*** The proposed arrangements are considered acceptable subject to compliance with Council requirements.

***Disturbance during construction:*** A condition should be attached which places operational time restrictions on construction activities in the interest of amenity.

***Disabled access and fire certs:*** These issues should be addressed by the appropriate agencies.

### **5.0 RECOMMENDATION**

Arising from my assessment of the appeal case I recommend that planning permission should be granted for the proposed development for the reasons and considerations set down below, subject to compliance with the attached conditions.

## REASONS AND CONSIDERATIONS

Having regard to the provisions of the provisions of the Dun Laoghaire Rathdown Development Plan 2010-2016 and to the nature, form, scale and design of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not adversely affect the residential or visual amenities of the area and it would not give rise to a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 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 points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

2. The development shall be carried out in accordance with the terms and conditions of the planning permission granted under PL06D.224213 except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity and the proper planning and sustainable development of the area.

3. The developer shall install and maintain opaque glass to a height of 1.6m above finished floor level in the north-western elevation and the window below this level shall be permanently closed.

**Reason:** To protect the residential amenities of the neighbouring house to the north west at "Keem".

4. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

Karla Mc Bride

Senior Inspector

10<sup>th</sup> May 2011