

An Bord Pleanála



Inspector's Report

PL29S. 245395

DEVELOPMENT:- 28 houses, 22 apartments and alterations to an existing gate lodge, Presentation Convent Site, Terenure Road West, Dublin 6W

PLANNING APPLICATION

Planning Authority: Dublin City Council

Planning Authority Reg. No.: 3871/14

Applicant: Kimpton Vale Ltd

Application Type: Permission

Planning Authority Decision: Split decision to grant permission for the houses and refuse it for the apartments

APPEAL

Appellants:

1. Kimpton Vale Ltd
2. Terenure West Residents' Association

Type of Appeals: 1st and 3rd parties vs. split decision

Observers: Association of Residents of Terenure

DATE OF SITE INSPECTION: 2nd December 2015

INSPECTOR: Stephen J. O'Sullivan

1.0 INTRODUCTION

- 1.1 This report deals with first party and third party appeals against a split decision by Dublin City Council on an application for permission for a housing development.

2.0 SITE

- 2.1 The site is located in an established suburban area in Dublin City close to the district centre of Terenure. It has a stated area of 1.26ha and an elongated shape with c39m frontage onto Terenure Road West and a depth of c370m. It was the site of a convent that has been demolished. It is currently vacant apart from a dilapidated gate lodge. The adjoining site to the east is occupied by a school. The adjoining site to the west is occupied by three storey blocks with ground floor apartments and duplexes above. The surrounding area has a mix of residential forms, including terraced houses and apartment blocks.

3.0 PROPOSAL

- 3.1 The proposed development would provide 51 dwellings, including 28 new terraced houses, 11 ground floor apartments with 11 duplex apartments above them in two separate blocks, and 1 other dwelling in a renovated gate lodge. The stated floor area of the proposed development is 7,284m².

- 3.2 The house types would be as follows-

12 of house type A which would have a floor area of 190m² over 3 storeys including three bedrooms and a study

13 of house type B which would have a floor area of 171m² over 3 storeys including 3 bedrooms and a study

1 of house type C which would have a floor area of 171m² over 3 storeys including 3 bedrooms and a study

2 of house type D which would have a floor area of 104m² over 3 storeys including 2 bedrooms and a study

1 of house type E in the former gate lodge with a floor area 118m² over 2 storeys including 3 bedrooms

11 ground floor apartments of types F and F2 with a floor area of 85m² including 2 bedrooms

11 of duplex apartment type F1 with a floor area of 126m² including 3 bedrooms.

The apartment blocks would have a roof ridge height of 13.8m. House types A, B, and C would be c11m high, house type D would be c10m high, while house E would be 5.94 high to the roof ridge.

- 3.3 The houses would be provided with back gardens of between 48m² and 73m². The ground floor apartments would have patios of between 20m² and 38m². The duplex apartments would have terraces of 16m². A public open space of 2,268m² would be provided.
- 3.4 There would be a vehicular and pedestrian access from Terenure Road West, with an access road through the site 5.5m wide, or 6.0m opposite perpendicular parking spaces. 51 parking spaces would be provided with 31 on-street spaces and another 20 in driveways. Two sets of bike racks are shown.

4.0 POLICY

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area, May 2009

- 4.1 Section 5.10 recommends that residential development on former institutional lands should be at densities between 35-50 dwellings per hectare. Section 7.10 states that each proposal should be subject to a qualitative judgment on its own merits to avoid undermining the required density through the cumulative impact of a series of standards.

Dublin City Development Plan 2011-2017

- 4.2 The site is zoned Z12 for institutional use with the potential for development. Residential use is permissible under that zoning. Section 17.9.1 of the development plan states that apartments in the suburbs should have private or communal open space to a standard of 12-15m² per bedspace. It is noted that the distinction between public and communal open space may become blurred in high density developments. For the Z12 area, the plot ratio standard is 0.5-2.5, and the maximum parking allowed is 1.5 space per home. Section 17.9.7 states that infill development should normally comply with standards but that they may be relaxed in limited circumstances to ensure the development of vacant sites.

5.0 HISTORY

- 5.1 PL29S. 232775, Reg. Ref. 3455/08 – the board granted permission on 17th July 2009 for a scheme with 32 houses and a block of 15 apartments on the site. The period for this permission was extended to 10 years.

6.0 DECISION

- 6.1 The planning authority decided to grant permission for the new houses and the alterations to the gate lodge, and to refuse permission for the apartments.

- 6.2 The grant of permission was subject to 13 conditions. Condition no. 4 was that the pedestrian access to Mayfield Road be omitted in the interests of amenity.
- 6.3 The reason for refusal stated that the private and communal open space for the proposed apartment and duplex units failed to meet the standards set down in the development plan, particularly section 17.9.1.

7.0 REPORTS TO THE PLANNING AUTHORITY

- 7.1 Submissions – Several submissions were made. It was stated that the site could provide greater permeability for cyclists and pedestrians from Corrib Road. Concerns were expressed regarding overlooking and overshadowing of existing properties on Corrib Road. There would be inadequate parking in the development and it would add to traffic congestion. It would not provide housing suitable for older people who wished to remain in the area.
- 7.2 Roads and Traffic Division – No objection subject to conditions
- 7.3 Drainage Division – No objection
- 7.4 Planner's report – The report on the initial application analysed the proposed development as an amendment to an existing scheme. It found the arrangement for access to the rear of the ground floor apartments to be convoluted. The units complied with minimum floorspace standards. However the apartments did not comply with the standards for private open space. It was recommended that further information be requested. The subsequent report found that the revised private open space provision for the apartments was inadequate and recommended their omission. The proposed houses are acceptable. It referred to the omission of the access to Mayfield Avenue from the scheme previously authorised by the board. A split decision was recommended.

8.0 GROUNDS OF APPEAL

8.1 The grounds of the first party appeal can be summarised as follows-

- The policy at section 17.9.7 of the development plan is to ensure the development of vacant infill sites such as the appeal site. There is an extant permission on the site for a block of 15 apartments and 32 houses on the site. The road layout and access proposed in this application is the same as the authorised one. All of the substantive issues with regard to the site were dealt with in the previous application and the current proposal should be reviewed in that light.
- The decision by the council to omit the apartments without providing for an alternative was irrational. They should be reinstated by the board as this is an infill site and they would increase the overall density in

accordance with the council's policy. The proposed open space is more than adequate for a small number of units proposed in a suburban area close to a large number of amenities. They are already duplex/apartment units in the vicinity, so the proposed units would be in keeping with the scale and fabric of the area.

8.2 The grounds of the third party appeal can be summarised as follows –

- The city council's decision to omit part of the housing will ameliorate its impact on parking and traffic congestion. It would provide more open space and reduce its density to be more in keeping with that prevailing in the area.

9.0 RESPONSES

9.1 The planning authority did not respond to the appeal.

9.2 The applicant's response to the first party appeal re-iterated the points that were made in the third party appeal.

10.0 OBSERVATION

10.1 The observation from the Association of the Residents of Terenure can be summarised as follows-

- The observer supports the omission of 22 apartments from the scheme and the pedestrian access to Mayfield Road. The first party did not seek the reinstatement of the pedestrian access in its appeal and it does not form part of the proposed development. The boundary treatment shown on the submitted plans should not be erected to protect the privacy of Mayfield Road and prevent illegal short cuts over the fence.
- The council's decision is based on best planning principles and is in keeping with the board's decision of 2009. The first party appeal contained no real arguments. The planner's report stated that the communal open space for the apartments was well below development plan standards. The apartments fail to meet the private open space standards set out in the development plan. Infill development should comply with all relevant standards and only in exceptional circumstances will the planning authority relax. As there is an extant permission to develop this site no such circumstances arise. The underprovision of private open space would set an unacceptable precedent.

11.0 ASSESSMENT

11.1 The planning issues arising from the proposed development can be assessed under the following headings –

- The principle and amount of development
- The standard of amenity for its occupants
- Impact on the character and amenities of the area
- Access and parking

The principle and amount of development

11.1 The Z12 zoning of the site allows for residential development in the short term. The principle of development is therefore acceptable. The density of the development as proposed by the applicant would be 40 units per hectare. This would be within the range of 35-50 recommended by the national guidelines for a new development on former institutional lands in an established suburban area. But it would be at the lower end of that range. The plot ratio of the proposed development would be 0.57. Again, this is at the low end of the acceptable range of 0.5-2.5 for Z12 lands set in the development plan. So the amount of residential development proposed for the site by the applicant is acceptable according to local and national standards. The omission of the apartments would reduce the amount of the development to below minimum standards, even if it were assumed that the resultant land would be occupied by houses. This would represent an inefficient use of zoned and serviced land and would contravene national and local policies on sustainable residential development. A very clear and compelling reason would be required to justify doing so.

The standard of amenity for its occupants

11.2 Both the proposed apartments and the proposed houses would comfortably exceed development plan standard regarding the floorspace of dwellings. Each would have access to a useful area of private amenity space in the form of gardens, balconies or terraces that would be small but functional. A substantial area of open space would be provided towards the rear of the scheme with an area of 2,200m². The access to that space from Mayfield Avenue was excluded from the proposed development by the planning authority following a similar condition imposed by the board on the authorised development on the site. Given the situation and size of the proposed open space, the benefit of it would flow predominantly, if not exclusively, to the residents of the proposed development including those of the proposed apartments. So they would have access to an adequate amount of shared open space as well their private amenity space. The proposed development would therefore provide an acceptable standard of residential amenity for its occupants. The failure to comply with a particular item in the development plan standards relating to communal open space would not justify the omission of the proposed apartments from the development. The design approach adopted by the applicant is a reasonable response to the elongated shape of the site which

requires the layout of a street, rather than perimeter blocks through the site. It may also be noted that development plan itself recognizes that the distinction between public and communal open space becomes blurred in high density developments. Section 7.10 of the national guidelines warns that a series of standards should not be separately applied to residential development if their cumulative effect is to reduce its overall density below the required levels, and that a qualitative test should be applied to each proposal on its merits. The development as proposed by the applicant would provide good residential accommodation, according to such an approach. The bulk of the proposed development would consist of tall houses on narrow plots that contained a lot of floorspace, which seems to be the current fashion. However, as proposed by the applicant, the development would contain a reasonable mix of housing types and so would meet a wider range of housing needs than if the apartments were omitted and only large tall houses remained.

Impact on the character and amenities of the area

- 11.3 The character of the area surrounding the site is quite mixed, with a large institution on one side, late 20th century apartment schemes on the site, and early and mid-20th century housing schemes to its rear. The proposed development would be in keeping with this character. Its layout would address the main Terenure Road, while also providing a street frontage within the site that would give the scheme a coherent and rational appearance. The proposed houses and apartment blocks would be tall and of considerable bulk. However they would not be significantly bigger than the apartment blocks to the west or the school buildings to the east. Their detailed design would be reminiscent of the neighbouring Edwardian housing at Mayfield Avenue. The gate lodge on the site is not a significant feature in itself, but its retention and enlargement would provide some recognition of the previous use and built form of the site. The layout of the proposed development ensures that it would not unduly overlook, overshadow or overbear any of the neighbouring properties. The proposed development would therefore have a positive impact on the character and amenities of the area.

Access and parking

- 11.4 One parking space would be provided for each of the proposed homes. This provision is unlikely to satisfy all the likely demand for parking within the scheme of such large proposed houses and apartments. However the proposed level of parking is in accordance with development plan standards. The layout of the development, with one long street perpendicular to a single vehicular access to a main road which itself has no on-street parking, means that it is highly unlikely that it would have an impact on parking on other roads and streets in the vicinity. There is nowhere else outside the site where the residents of the proposed development would be likely to want to park when they go home. The provision of adequate bicycle storage for apartments is a requirement of the development plan. It is not clear from the submitted drawings how this will be achieved, but the matter can properly be addressed by condition. The road network in the vicinity of the site will be congested at

peak times whether or not the proposed development goes ahead. If it does, then a larger number of people will have access to a wide range of commercial and social facilities within walking distance of their homes and the inconvenience arising from the traffic congestion in the area will have been ameliorated. So the impact of the proposed development on traffic and parking in the area would not justify reducing the amount of residential accommodation that it would provide to below the sustainable levels provided for in national and local policy.

- 11.5 The layout of the roads and parking within the site is generally acceptable. However it appears to have been copied from the previous development on the site without regard to the currently applicable standards set out in DMURS with regard to carriageway widths and junction radii. This causes a particular issue at the access to the site which is on a main road where the footpath is narrow right beside a school, and the site layout plan shows a junction with curve radii of 6m and no continuous pedestrian road across. The issue is therefore serious, but it can be adequately addressed by a condition imposing current roads standards as this would not require changes to the layout of the proposed housing. Pedestrian permeability is a positive feature of urban environments, and such a link to Corrib Road from Terenure Road West would be of considerable benefit. However it is not clear that one could be provided from the appeal site without impinging on other private lands. The omission of the pedestrian link from Mayfield Road by condition no. 4 of the planning authority's decision would not significantly reduce the permeability of the neighbourhood. It would be difficult to reverse in the context of an appeal where the first party has not sought to do so, as the observer pointed out.

12.0 CONCLUSION

- 12.1 The development proposed by the applicant would be in keeping with the zoning of the site. It would provide the quantum of development required on zoned and serviced land within the existing built up area by national and local policies on sustainable urban development. It would provide a good standard of amenity for its occupants and would have a positive impact on the character and amenities of the surrounding area. Refusing permission for all or part of the proposed development would not, therefore, be justified. Minor alterations are required to the layout of the roads and parking on the site to meet current standards, but these can reasonably be required by condition. The proposed development would therefore be in keeping with the proper planning and sustainable development of the area.

13.0 RECOMMENDATION

- 13.1 I recommend that permission be granted subject to the conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to the Z12 zoning of the site, which allows for residential development, to the provisions of the Dublin City Development Plan 2011-2017 and of the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas* issued by the minister in May 2009 which require the provision of a sufficient amount of residential accommodation when zoned and serviced land is being redeveloped, and to the public and private open space that would be provided within the proposed development, it is considered that, subject to the conditions set out below, the proposed development would provide an adequate standard of amenity for its occupants, would not injure the character of the area or the amenities of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. It would therefore be in keeping 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 as amended by the further plans and particulars submitted on the 3rd day of July 2015 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 roads and parking provided for the authorised development shall be amended to comply with the standards and specifications set down in the *Design Manual for Urban Roads and Streets* issued by the minister in March 2013. In particular the amendments shall provide for –
 - Curve radii at the junction with Terenure Road West of no more than 4.5m. A courtesy crossing facility with vertical deflection shall be provided across that junction which shall align with the existing footpaths along Terenure Road West on either side of the junction.
 - The width of the carriageway on within the site shall be no more than 5m. Where additional manoeuvring space is required for perpendicular parking spaces, this shall be provided within the parking bay behind raised kerbs as necessary.

- Secure and covered bicycle parking to a standard of 1 space per unit in the immediate vicinity of both apartment buildings and on the same side of the internal road as the buildings.

In the event that compliance with these requirements necessitates the displacement of parking spaces from the locations shown on the submitted site plans, additional car parking space may be provided along the perimeter of the proposed public open spaces. The total number of parking spaces provided in the development shall not be less than 51. The revised details required by this condition shall be agreed in writing with the planning authority.

Reason: To provide a safe residential environment with adequate parking in accordance with the applicable standards

3. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

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

Reason: In the interest of public health.

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

6. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interests of urban legibility

7. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

8. The development shall be carried out in accordance with the landscaping plans submitted with the application, including the implementation of the boundary treatments, surface treatments and planting shown thereon for the public open space and throughout the site. The works shall be carried out to the satisfaction of the planning authority prior to the occupation of the development, and any plants which die or are removed within the following five years shall be replaced by the developer.

Reason: In order to ensure the satisfactory residential environment

9. Site development and building works shall be carried only out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 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 [residential] amenities of property in the vicinity.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

11. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

12. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

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

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

Stephen J. O'Sullivan
3rd December 2015