

An Bord Pleanála



Inspector's Report

Appeal Reference No: PL06D.245540

Development: Retain subdivision of first and second floor into two apartments at apartment 20 Sky View House, Vico Rock, Dalkey, County Dublin.

Planning Application

Retention Permission

Planning Authority: Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.: D15A/0368

Applicant: James Delaney

Planning Authority Decision: Grant with conditions

Planning Appeal

Appellant(s): (1) Sorrento Heights Management Limited
(2) Vico Rock Property Management Limited

Type of Appeal: Third Part vs Grant

Observers: Mark Piggott Cassini

Date of Site Inspection: 16th December 2015

Inspector: Hugh Mannion

1.0 SITE LOCATION AND DESCRIPTION

The site comprises two apartments with a combined floor area of 226m² formerly known as 20 Skyview House, Vico Rock, Sorrento Road, Dalkey, County Dublin. The building to which the application refers is a two storey over basement building which fronts onto the end of a cul de sac. There are three units in the building, one apartment at basement level, one at first floor and one at second floor. Each unit has separate private open space provisions. The building was originally constructed with two front doors which served the single unit which formerly occupied the first and second floors (first and second floors are shown on the lodged plans so I have adopted this designation for east of reference).

The site is located on a cul de sac off Sorrento Road which serves a number of apartment blocks and houses.

2.0 PROPOSED DEVELOPMENT

Retain sub-division of an originally two storey apartment into two separate units; one at first and another at second floor of an apartment building at Sky View House, Sorrento Court, Vico Road, County Dublin.

3.0 PLANNING HISTORY

Under reference 65/86 under which six blocks of apartments were applied for; five were permitted (A, B, C, D and E) while F was omitted and its site to be given over to a repositioned block E and a turning area.

Under reference 956/89 permission was granted for an amended block E which would have two housing units; a single storey unit in the basement and a two storey unit on ground and first floor.

It is this two storey unit which is the subject of this application.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

The **planner's report** recommended a grant of permission as issued.

Drainage Section reported no objection to the proposed development.

Irish Water reported no objection.

4.2 Planning Authority Decision

The planning authority granted permission subject to 6 conditions. None of these conditions materially altered the application.

5.0 GROUNDS OF APPEAL

The grounds of appeal may be summarised as follows;

- The application to the subdivision of an apartment 20 Vico Rock which is part of a 1980 built apartment development accessed over a private road after its junction with Sorrento Road.
- 63 residential units use this private road which is inadequate in width and alignment and has a poorly designed junction with Sorrento Road. Parking provision is inadequate for the existing residential uses and congestion. The application did not provide additional car parking to serve the dub-divided units. As further information the applicant proposed parking on an existing turning area. The proposed development is contrary to the parking standards set out in the County Development Plan.
- Refuse storage/internal storage to serve the apartment is inadequate. Private open space provision is inadequate. There is no public open space provided to serve the additional apartment.
- The applicant does not have sufficient legal interest to provide car parking on the area proposed in the further information submitted.
- The proposed development contravenes conditions of a permissions under reference 65/86 which required the proposed parking area to be reserved for a turning bay. Permission under PL57/5/84094 required that no subdivision of the permitted unit should take place.
- The public notices are inadequate and submitted drawings do not show an unauthorised lift on Block E.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

The planning authority responded to the appeal to state that all the issues were dealt with in the planner's report and the Board should uphold the planning authority's decision.

6.2 Applicant's response

- The 'turning circle/viewing area' mentioned in the appeals is in the ownership of the applicant and was never used as a turning circle/viewing area. The residents of the house 'Cassini' have only a right of way over the turning circle/viewing area.
- The applicant has 6 car parking spaces to serve block E where the apartments are located. The applicant has sufficient legal interest to carry out works within the line set out on drawing 15042/01 submitted with the application.
- The applicant will deal with the matter of fire safety certificates and disability access certificates separately.
- The proposed development does not increase the footprint or total square meterage of development on site.

6.3 Appellants' comments on each other's appeals

- Retention of unauthorised development will set a precedent.
- The proposal is not served by additional parking.
- The applicant has does not have sufficient legal interest to carry out the development.

6.4 Objections/Observations on Appeal

An objection has been made by Mark Piggott Cassini in relation to the proposed development. The objection may be summarised as follows;

- The application documents are unclear as to what is being proposed and do not comply with the regulations.
- The observer has a right of way over the lands which are proposed for car parking. The application does not provide parking in accordance with development plan standards.
- The LPG tank on site is unauthorised.
- The balconies which serve the development are unauthorised.
- The windows shown in the lodged drawings as serving the kitchen and bedroom are unauthorised.

7.0 POLICY CONTEXT

The site is zoned 'to protect and/or improve residential amenity' in the Dun Laoghaire Rathdown County Development Plan 2010 – 2016.

Table 16.3 of the Development Plan requires that two parking spaces be provided for each 3 bed apartment.

Table 16.1 of the County Development Plan provides that a three bed apartment should have 10m² of private open space.

8.0 ASSESSMENT

8.01 Introduction

8.02 There is a long planning history to this site which is set out in the appeals/submissions received by the Board. The more relevant history is reference 65/86 under which six blocks of apartments were applied for; five

were permitted (A, B, C, D and E) while F was omitted and its site to be given over to a repositioned block E and a turning area. This application came to the Board on appeal but the appeal was withdrawn which left the planning authority's decision intact. Under reference 956/89 permission was granted for an amended block E which would have two housing units; a single storey unit in the basement and a two storey unit on first and second floor.

8.03 It is this building which subject of this application with the original single apartment on first and second floor now having been subdivided into two separate units. No external alterations were required to the building as it was constructed with two front doors accessing a single hall. The construction of an internal wall in the entrance has allowed one door to access the first floor apartment and the second door (that on the right) to access an small lobby from which a stairs lead up to the apartment on the second floor.

8.04 I would identify the issues in the present case as landownership, access and car parking, apartment standards, impacts on amenity of adjoining residential uses.

8.05 Landownership

8.06 The third parties and the observer dispute the title to the parking/turning area on the southern boundary of Block E/the application site. This matter was raised at application stage and the appellants' submissions were circulated to the other parties at appeal stage. It is not within the remit of the Board to determine title to lands and section 34 (13) provides that a person shall not be entitled solely by reason a grant of permission under the Planning and Development Acts to carry out development where other impediments apply.

8.07 The Board should satisfy itself that the applicant has sufficient legal interest to make the application. Having regard to the material submitted with the application and appeal and to the decision of the planning authority I recommend that the applicant has sufficient legal interest to make the application and that the Board proceed to determine the appeal.

8.08 Access and car parking

8.09 The proposed development is located at the end of a cul de sac - Sorrento Court - which serves a number of apartment developments and single unit houses off Sorrento Road.

8.10 The appeals make the case that the access road is inadequate in width and alignment and that parking in the area is congested. I can agree with this observation and indeed during my inspection did note that footpaths are not continuous within the development and there is a steep fall in the road as it turns towards the bridge over the DART line/railway line. Notwithstanding these circumstances I conclude that reconfiguring a permitted development from a single unit to two units without adding additional floor area will not create a materially additional demand for access along this road.

8.11 Table 16.3 of the Development Plan requires that two parking spaces be provided for each 3 bed apartment. Table 16.3 also makes the point that the standards should be considered in light of design and location. The applicant states that he has 6 spaces; four in front of Block E which contains the permitted basement flat and the first and second floors now converted to two apartments and two further spaces in the disputed parking/turning circle to the south of Block E. These latter two spaces are shown on drawing number 156042/10 submitted to the planning authority on the 10th August 2015 as further information. In this context it is significant that no additional accommodation is being created within the building and it is arguable that no additional bedrooms are being created. Having regard to the availability of a DART station and Dublin Bus service in close proximity to the site and applying the standards set out in the Development Plan the entire Block E as amended by this application would require 6 spaces¹. I conclude that car parking provision meets the Development Plan standards.

8.12 There is a house – Cassini – which has a vehicular access over the parking/turning area to the south of Block E. It has a pedestrian entrance further on along the access to the right of the parking/turning area unaffected by the parking/turning area. The observer who owns/lives in Cassini makes the case that the use of this area for parking would impede the use of this access. It may be noted that there is a spud wall along about ½ of the boundary with the public road and on the day of my site inspection there was one ‘Smart’ car parked in the parking/turning area. Although not marked out as a parking spaces I consider that the provision of two spaces in this area in accordance with number 156042/10 would not block access to the vehicular gate to Cassini.

¹ I'm assuming a two or three bed flat in the basement.

8.13 Apartment Standards.

8.14 There is a lack of quality public open space in the immediate area of the proposed development but I do not consider that a reconfiguration of the accommodation within the building will materially impact on this situation.

8.15 Table 16.1 of the County Development Plan provides that a three bed apartment should have 10m² of private open space. Relying on the submitted drawings which I consider to be accurate the first floor unit has about 9m² while the second floor unit has about 12m². Therefore one unit is slightly below the requirement while one unit is slightly above. If this were a new development it would be reasonable to design in accordance with the Development Plan standards; however in the present case the proposed development has taken place within the existing fabric of the building. Having regard to the history of development on site and the relatively high quality of the space provide in terms of access to sunlight and visual amenity I consider that the private open space provision is acceptable

8.16 The planning authority raised the issue of internal storage space by way of a request for further information and the applicant lodged a drawing (15042/12) on the 10th August 2015 showing internal storage in both units. I conclude that this arrangement is adequate to meet the needs of residents on the units.

8.17 The application also clarified by way of submission of further information that no additional windows are proposed within the retained development. Overall I consider that the standard of accommodation proposed is reasonable and that the proposed development will not negatively impact on the amenity of adjoining property.

8.18 LPG tank

8.19 There is an LPG tank in the corner of the parking/turning area. The parties/observer make the case that this is unauthorised development. The observer/appellants also make the case that windows and balconies are unauthorised.

8.20 In so far as this is an issue it may be noted that it is the responsibility of the planning authority under Part 8 of the Act to address unauthorised development within their administrative area.

9.0 CONCLUSIONS AND RECOMMENDATION

Having regard to the foregoing I recommend that permission should be granted for the reason and considerations and subject to the conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to the location of the proposed development in an area zoned 'to protect and/or improve residential amenity' in the Dun Laoghaire Rathdown County Development Plan 2010 – 2016, to the pattern of development in the area and the existing residential use of the site and subject to the conditions set out below it is considered that the proposed development would not give rise to traffic hazard or injury to residential amenity and would otherwise accord 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 to the planning authority on the 10th day of August 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 two apartments on first and second floor the subject of this application shall each be used as a single dwelling unit only.

Reason: In the interest of residential amenity.

3. Within three months of the date of this order the applicant shall mark out on site the two car parking spaces shown on drawing number 156042/10 submitted to the planning authority on the 10th August 2015.

Reason: To ensure adequate parking provision in accordance with County Development Plan standards.

4. 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.

Hugh Mannion
Planning Inspector
23rd December 2015