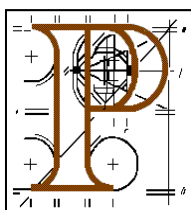


## An Bord Pleanála



### Inspector's Report

**Appeal Reference No:** PL29S.245626

**Development:** The construction of 2no.2bedroom duplex units with associated balcony and terrace.

#### Planning Application

Planning Authority: Dublin City Council

Planning Authority Reg. Ref.: 2943/15

Applicant: Brookrush Limited

Planning Authority Decision: Permission

#### Planning Appeal

Appellant(s): Brookrush Limited  
Oliver O'Brien - South Hill Residents  
Patrick and Joanna O'Reilly

Type of Appeal: First and Third Party

Observers: None

Date of Site Inspection: 7<sup>th</sup> of January 2016

**Inspector:** Angela Brereton

## **1.0 SITE LOCATION AND DESCRIPTION**

The subject site is located to the north of Milltown Road, Dublin 6. It is a corner site on the south side of South Hill, Dartry that contains an existing 3 storey apartment development and associated on-site gated parking area. These are described as apartments 1-6 at no.38 South Hill, Dartry. The site is split level with the rear access to the apartment block via an access bridge to the flat roof of the third floor and glazed entrance lift area. The front elevation and main access is to the lower level Milltown Road. There are deciduous trees and railings along the site frontage. The bin storage and bicycle parking area is at ground level to the rear of the block.

There is a considerable difference in ground levels with the rear of properties in South Hill located on the top of a steep bank facing Milltown Road. The adjoining two storey properties to the west currently have a higher ridge level than the apartment block, the property to the east with access onto the Milltown Road is on a lower level. There are steps to the east of the site providing public pedestrian access from Milltown Road to the more elevated South Hill. No 37 South Hill is a two storey property to the north east of the site and no.39 to the west.

There is a bus stop in front of the site and on the opposite side of the road. The Milltown Luas stop is c.400 to the north east. The Dropping Well public house, associated parking area and the Dodder Park are located to the south on the opposite side of the Milltown Road.

## **2.0 PROPOSED DEVELOPMENT**

This comprises the construction of 2no. 2 bedroom duplex units, both with associated balcony and terrace areas. The proposal is to be accommodated over the existing 3 storey apartment building to provide for a new third and set back fourth floor level. This will result in an overall building height of 5 storeys from Milltown Road and 2 storeys from its interface with South Hill. The proposal also provides for increased balcony and terrace areas for the existing 6no. apartment units; revised car parking, bicycle parking and landscaping arrangements; revisions to elevations; and all associated site development works.

The application form provides that the site area is c.1000sq.m, the g.f.a floor area of buildings to be retained within the site is 590sq.m (486sq.m n.f.a.), of new build is 250sq.m g.f.a giving a total floor area of 840sq.m g.f.a.

Drawings submitted include a Site Layout Plan, floor plans, sections and elevations. Contiguous elevations have also been submitted.

A Planning Application Report has been submitted by Brock McClure Planning and Development Consultants on behalf of Brookrush Limited providing a rationale, planning history and assessment of the proposed development.

A letter has been submitted on behalf of Davy Property Holdings providing that they are the legal property owners of the subject property and consent to the submission of a planning application in the name of Brookrush Limited.

### 3.0 PLANNING HISTORY

The following is relevant to the subject site:

- Reg.Ref.2421/99 and ABP Ref.PL29S.117766 – Permission granted by the Council and subsequently by ABP for the construction of 6no. 2 bedroom apartments in a 3 storey development with roof garden and 9no. parking spaces.
- Reg.Ref.6435/05 – Permission granted for retention of modifications to existing parapets and access link bridge at roof level of existing 3 storey apartment building. This provided that access to the apartments is currently achieved through this access link bridge and will serve as a separate access for the duplex units.

A copy of these decisions is included in the History Appendix to this Report.

### 4.0 PLANNING AUTHORITY APPLICATION

#### **Engineering Department – Drainage Division**

They have no objection to the proposals subject to standard conditions including the incorporation of SUDS.

#### **Roads Streets and Traffic Department – Road Planning Division**

They do not object to the proposal subject to a number of conditions including allocation of parking spaces per units.

**Submissions** from local residents including a petition from South Hill residents include the following concerns which are considered more fully relevant to the context of the third party appeals below:

- Need to improve the visual appearance of the apartment development.
- The scale and height of the proposed development is not in character with the two storey family homes and will have a negative impact on the area.
- Sunlight and Daylight analysis is needed.
- Insufficient car parking provided leading to congestion and traffic hazard.
- The proposal is inconsistent with the proper planning and sustainable development of the area.

#### **Planner's Report**

This had regard to the locational context of the site, planning history and policies and to the submissions made. They considered that in general the proposed development complies with the residential development quality standards in the DCDP 2011-2017. However they were concerned that the proposed height is excessive for this location and does not comply with the height policy as per Section 17.6.2 of the Development Plan and further information was requested to revise the proposal to ensure compliance with the height policy.

#### Further Information response

Brock McClure's response on behalf of the Applicant provides that having considered the matter in some detail that they are of the professional opinion that the proposal does not contravene the DCDP and is in keeping with general policies and objectives

in the Plan and provide a detailed assessment of this. They provide that all qualitative standards are met by the proposal and that there is no overlooking or impact on existing residential amenity.

#### Planner's response

This provides that the Development Plan is clear on height limits within the city. For residential development in low rise areas of the outer city S17.6.2 sets out a height of up to 4 storeys and below 13m. They recommend that a condition should be attached to require the third level to be revised to accommodate a maximum of two residential units to comply with the residential quality standards of the DCDP 2011-2017. Subject to such amendments they considered the proposed development to be of an acceptable scale and not have an adverse impact on the residential amenities of adjoining dwellings.

### **5.0 PLANNING AUTHORITY DECISION**

On the 17<sup>th</sup> of September 2015 Dublin City Council granted planning permission for the proposed development subject to 9no. conditions which include the following:

- Condition no.2 – provides for Development Contributions
- Condition no.3 – drainage
- Condition no.4 – allocation of car parking spaces and provision of cycle spaces.
- Condition nos.6-8 – restriction on construction hours and construction related matters.
- Condition no.9 – provides for revisions to the height of the proposed development.

### **6.0 GROUNDS OF APPEAL**

A First Party Appeal against condition no.9 and two separate Third Party Appeals against the Council's decision to grant permission have been received and these are summarised as follows:

#### **6.1 First Party Appeal**

Brock McClure has submitted this appeal on behalf of the applicant Brookrush Limited and they ask the Board to remove Condition no.9 and to grant permission for the scheme as originally submitted. Their grounds of appeal include the following:

- The PA has not taken a balanced view on the matter of height in this instance and has been far too stringent in the application of the provisions of Section 17.6.1 (i) and (ii) in considering this issue.
- The Development Plan provides and allows scope for the proposed height of 5 storeys and they refer the Board to the provisions of S.17.6.1(i) and (ii) concerning this issue.
- The proposal is not overbearing or oppressive in terms of height and will not injure the visual amenity or local character of the area.
- The applicant and the design team have taken every step possible to ensure that a quality residential scheme is delivered. Having regard to the unique

context of the site there is no direct impact arising from the proposed height on the established levels of residential amenity afforded in the area.

- The subject site is located in close proximity to a key public transport corridor and an increased density and additional building height is therefore appropriate.
- The proposal offers an increased appropriate density, and increased residential amenity for all the residents in the apartment development through an increase in private space provision. The additional units ensure that the wider proposal to increase the residential standards across the apartment block is economically viable.
- They consider that this is the most appropriate form of development for the site and is in full accordance with the proper planning and sustainable development of the area and the current Development Plan.
- They have submitted revised drawings showing modifications to the scheme (mezzanine option) and this includes photomontages. While their preferred option is the scheme as originally submitted and the Board's removal of Condition no.9, the revised option is in response to this condition.

## 6.2 Third Party Appeals

6.2.1 *South Hill Residents* – Oliver O'Brien has submitted an appeal on their behalf and their grounds of appeal are summarised as follows:

- The amenities of adjoining residents have already been adversely affected by the existing apartment development. This particular development started before 2001 and circumstances were very different.
- One parking space per apartment no.38 has proved to be inadequate and this proposal does not allow for visitor parking. Road safety has been negatively impacted.
- The site line at the end of the road of the estate will be further compromised and obstruction of views will be increased.
- They are concerned about disposal of refuse from the apartments at no.38 being haphazard and affecting the amenities of local residents.
- There may be construction problems with the steep gradient of the site.
- They support the standards in Section 17.6 of the DCDP 2011-2017 relative to height constraints.

6.2.2 *Patrick and Joanna O'Reilly* – They are the homeowners of no.37 South Hill and their grounds of appeal include the following:

- They have regard to the changes in design and implications of the Council's Condition no.9 and consider that this goes beyond the remit and limited flexibility of *points of detail* as understood by Section 35(4) of the Planning and Development Act 2000(as amended) and as understood by its associated jurisprudence.
- DCC acted in excess of jurisdiction in the imposition of this condition, as adjoining owners are left with no opportunity to object to the revisions to the proposed development which may be substantially different to that which permission was originally applied for.

- They are being unfairly hampered in their objections to the character etc of the development by reason of condition no.9.
- The proposed development is situated in an area characterised by family homes and would lead to a diminution of character and residential amenity.
- The upper storey is already above ground level, consequently the proposed development will be one and a half storeys higher than the existing development.
- The height of the proposed development will have a disproportionate negative effect on their property. They are concerned about the placement of windows on the side of the development facing no.37.
- They are concerned about loss of light and privacy.
- Sunlight and Daylight assessments should have been submitted.
- The non-traditional form and shape of the proposed development would give rise to a diminution of residential amenity in their gardens and in adjacent rooms and windows.
- The existing building is in breach of the building line on the Milltown Road thereby creating an additional visual breach of local norms.
- This may set an undesirable precedent for other potential development sites.
- The height of the proposed development exceeds that permitted in the current DCDP (S.17.6 refers).
- Traffic hazards are posed by a further intensification of the use of this site. They consider that 4 further spaces are needed and note that on street parking associated with the apartment development occurs and this will be exacerbated by further intensification of the site.
- On many occasions their gateway has been partially blocked by on street parking attached to the existing development.
- The access to the existing development is on an acute bend which when blocked by on-street parking can represent a traffic hazard.
- They are concerned that the SUDS issue has not been adequately addressed.
- They refer to a separate decision of the Board Ref.PL29S.228691 where the Board were concerned to retain the character of the streetscape and not to injure the residential amenities of the area and also had regard to issues of public safety and traffic hazard.
- They also refer to Reg.Ref.6576/06 where the proper planning of the area was considered in the context of profiles height and overlooking windows.
- Having regard to all these issues they ask the Board to refuse permission for the proposed development.

## **7.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL**

### **7.1 Planning Authority response**

The Planning Authority of Dublin City Council has not responded to the grounds of appeal.

### **7.2 Third Party responses**

7.2.1 *Oliver O'Brien on behalf of the South Hill residents* submits photographs taken external to no.38 South Hill. These illustrate the congestion they have experienced

near to the existing building. He provides that this is not as bad as it has been due to the apparent non-occupancy of Nos.39 and 40 and the lack of activity at no.38. The computer images give the impression of space external to the site which would not be their experience. Both images and the photographs illustrate the difficulties of placing additional apartments within such a sloping site. They submit that the no. of apartments at 38 South Hill will adversely affect the amenities of existing residents in the area.

7.2.2 *Patrick and Joanna O'Reilly* consider that the height policy in Section 17.6 of the DCDP cannot be broadly interpreted. They contend that the circumstances are not such as would permit the Board to statutorily allow a material contravention to the DCDP. They have not had any appropriate opportunity to address a 'mezzanine' or 'compliance' scheme through the usual planning system. Matters such as sunlight or daylight tests have not been carried out, shadow impact has not been assessed, the reduction in amenity value of their property has not been considered. They do not accept that either scheme, which did not form the basis of the original application can now be properly considered.

They are concerned that the proposal is more accurately two and a half storeys in height when viewed from South Hill. They also contend that the roof height of nos.39 and 40 are inaccurately drawn giving the impression that they are higher than they are. The existing development is about 1.5m above street level in South Hill. They enclose copies of the First Parties own plans and images to illustrate this. The proposed development would be outside the existing building line and would have a negative impact including overlooking and overshadowing of neighbouring properties. They enclose photos showing the relationship of their home to the existing apartment block.

They are concerned with the existing parking arrangement and overflow parking onto a dangerous bend. They do not consider that adequate parking has been provided for the proposed development, visitor parking and deliveries. They refer to another development (Reg.Ref.1203/08 and Ref. PL29S.228691) that was refused by ABP in South Hill relative to traffic and parking on a dangerous bend. They assert the apartment block at no.38 is on an equally bad bend. They are concerned that this proposed development will impact adversely on the amenity of local residents.

### 7.3 First party response

Brock McClure has submitted a response on behalf of the applicants to each of the original Third Party grounds of appeal. This includes the following:

- The appeal should be assessed based on the current proposal and not relevant to the apartment scheme already permitted.
- The 2 new residential units are considered to be a reasonable addition and will not have an adverse impact on the subject site or on local residents.
- The no. of parking spaces is in accordance with the DCDP standards. The Roads and Traffic Division are satisfied that the proposal provides adequate car parking.

- They reject claims of traffic hazard caused by on street parking and consider that the proposal will not have a significant negative effect on the surrounding road network.
- Having regard to views, the third party refer to a clear view of parkland and mountains before the apartments were built. They refer to the photomontages and consider that the view is not compromised rather the proposal on the contrary adds definition to the street line and view.
- They provide details of bin and waste storage areas which are located onsite and confirm that the existing management arrangements on site will be extended to include the proposed two units. They are amenable to a condition regarding waste management.
- The applicant is satisfied that there are no issues associated with the gradient of the site for construction purposes and note the existing apartments have been constructed.
- The scheme is in line with the qualitative and quantitative standards of the DCDP and the P.A has confirmed this to be the case.
- The proposal will appear as an appropriate infill development to the character and streetscape when viewed from both South Hill and Milltown Road. They are seeking permission for the scheme to be granted as originally submitted.
- They refer to the unique setting and proximity to public transport corridors.
- They remain convinced that there is scope within section 17.6.1(i) and (ii) of the DCDP in considering the 5 storeys height issue.
- They provide a response to the issue raised by the third party relative to the changes sought by condition no. 9 and do not consider that there is reason for concern or that their response would be a material difference to that originally submitted.
- The existing apartment block means that the area is not characterised by family homes. The proposal would be an appropriate form of development at this location and would not seriously injure the residential amenities of the area.
- The matters relative to SUDS have been addressed and they refer to the Council's condition no.3(c).
- They consider that the Board's refusal relative to Ref.PL29S.228691 referred to by the third parties is unrelated and unconnected to the current case and site context. A precedent has already been set at the subject location for apartment development.
- They ask the Board to dismiss the third party appeals and grant permission for the proposed development and to remove condition no.9.

## **8.0 POLICY CONTEXT**

### **Dublin City Development Plan 2011-2017**

The site lies within the 'Z1' Residential Land Use Zoning where the, land use zoning objective is: *To protect, provide and improve residential amenities.*

A copy of the relevant section of the Land Use Zoning Map H is included in the Appendix to this Report. The site is partly located within a zone of archaeological interest.



Chapter 11 concerns 'Providing Quality Homes in a Compact City'. Section 11.4.6 promotes sustainable Apartment Living.

Policy QH15 seeks: *To promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, achieving appropriate target average floor areas and levels of amenity within each apartment development; and ensuring that suitable social infrastructure and other support facilities are available in the Neighbourhood.*

Policy QH16 seeks to promote a range of optimum quality apartments.

Section 17.9 refers to Standards for Residential Accommodation and S.17.9.1 Part (A1) refers to the unit - all residential development and (A2) refers specifically to standards for apartments. Standards applicable to the scheme - all residential development are contained in (B1) and additional standards applicable only to apartments (B2).

Section 5.2.4.3 and Appendix 16 relate to Waste Management and Guidelines for Waste Storage facilities.

Section 5.1.4.7 includes policies and objectives relative to sustainable car parking. Section 17.40 provides the Car Parking Standards. Table 17.1 refers.

## **9.0 ASSESSMENT**

### **9.1 Principle of the Development and Planning Policy**

Residential use is permitted in principle in the 'Z1' land use zoning where the objective is: *To protect, provide and improve residential amenities.* Section 11.4.6 refers to Apartment Living which includes that: *Successful apartment living requires that the scheme must be designed as an integral part of the neighbourhood.* There is concern that the proposed development is excessive in scale and height and is not in character with the two storey family dwellings in South Hill and would lead to an over intensification of development on this site, including having regard to parking issues. The First Party submit that the proposal will enhance the character of the area and will reinforce the street view from South Hill and that adequate parking facilities are available.

In this case having regard to the residential land use zoning it is considered that the principle of such development is acceptable on this site. The issue is whether the proposed intensification is considered to be sustainable. Also it is of note that the proposal has a dual aspect for consideration relative to the configuration of the site i.e. the impact on the primarily two storey residential area of South Hill to the north and in the context of the existing three storey elevation to Milltown Road to the south. Regard is had to issues of intensification, design and layout including the modifications to the design submitted with the appeal in response to Council's Condition no.9, access and parking and to other issues raised by the First and Third Party Appeals. There is also a need to ensure that the height of the proposed development would not have an adverse impact on the character and amenities of

both the existing apartments, proximate residential and of the surrounding area and would be in the interests of the proper planning and sustainable development of the area. These issues are discussed in more detail in the Assessment below.

## 9.2 Regard to Planning History

The subject site was originally the side garden of no.39 South Hill. Planning permission was granted by the Council and subsequently subject to conditions by ABP (Reg.Ref.2421/99 and Ref.PL29S.117766 refers) for the construction of 6no. 2 bedroom apartments on three stories on lands, adjacent to no.39 South Hill. The development included nine car parking spaces with access from South Hill, a new pedestrian access at Milltown Road and an additional vehicular access to no.39. South Hill.

It is noted that the Inspector's Report then provided relative to visual amenity and in particular relative to the impact of the southern elevation: *The proposal would represent a very substantial change to views north from the Dodder Valley Conservation area and for receptors on the Milltown Road.* However they considered that the proposal was positive and would lead to sustainable residential density in the area. They also provided: *Considering the good public transport links there is no justification for increasing off-road parking provision beyond that proposed on site.* The parking arrangement provided for 9no. spaces for the 6no. units on a gated site.

A subsequent application for retention of modifications to existing parapets and access link bridge at roof level of the 3 storey apartment building was granted by DCC (Reg.Ref.6435/05 refers). The parapets have been increased in height with the addition of 800mm high privacy roof terrace screen over existing copings to the north, east and west elevations and the addition of a 1050mm high privacy screens to both sides of the link bridge. These modifications are included in the existing development. It appears that the existing roof terrace maybe accessible to residents of the apartments.

## 9.3 Design and Layout

The existing building is three storeys in height with a stair lobby lift and roof terrace at third floor level. The site has a steep gradient of about 16m falling from north to south and the apartment block has been constructed within this area excavated from the steep bank onto the lower level Milltown Road. Vehicular access and parking for the apartment scheme is on the northern side of the development from South Hill. An access bridge has been constructed (Reg.Ref.6435/05 relates) to connect the apartment block to the carparking area via the lift.

The overall footprint of the building on site is maintained in the current proposal. The details in the Planning Report by Brock McClure submitted with the application provide that the proposed residential development comprises the following:

- A development of 2x2 bedroom duplex units located at new third and fourth floor level of 108sq.m and 114sq.m each including revised entrance points.

- New enlarged balcony areas associated with existing apartments 1-6. They consider that this represents a significant improvement of existing residential amenity.
- Revised elevations details.

The new duplex units (apartments 7 & 8) are to be located at new third and fourth floor levels within the proposal and will be accessed via a communal stairwell from the ground floor level at Milltown Road with additional communal access from South Hill via existing pedestrian link. Both units are to have their own door access points from South Hill via the existing pedestrian link. Each unit is to comprise 2 bedrooms, one of which is ensuite, store room and hot press, bathroom and balcony area accessed via both bedrooms at third floor level and combined kitchen/living/dining area and terrace area accessed via this area on fourth floor level. Both units have 6sq.m storage area. Bin storage is in the basement of the existing apartment block and the applicants confirm that this will be extended to include the proposed new units. Therefore bin storage will not be haphazardly located on site. Should the Board decide to permit, it is recommended that a condition regarding waste management be attached.

Apartment nos.7 & 8 are to have a balcony area of 24square metres and terrace area of 13sq.m i.e total provision of 37sq.m.each. The proposed apartment floor areas comply with Section 17.9.1 of the Dublin CDP in that each exceeds 80 to 90sq.m for a two bedroom apartment. This allows 100sq.m for a 3 bedroom unit, both duplexes exceed this. The proposed units are south facing and other than bathroom windows, the windows, balconies and terraces face south. Therefore it is considered that provided the bathroom windows are obscure glazed the issue of overlooking will not occur. It is considered that the proposed duplex units would comply with and be in excess of the residential quality standards in the current DCDP.

It is also proposed to enlarge balcony and terrace spaces associated within ground, first and second floor apartments. All the balconies and terrace areas are to remain south facing to provide improved open space within each apartment unit. Opaque privacy screens are proposed on balconies and terrace areas along the east and west elevations so as to ensure that new private open spaces maintain the level of privacy afforded to adjoining properties. This will improve the standard of private open space for the existing apartments.

It is provided that the render included on the south elevation has not been extended to the north elevation. Rather this now incorporates glazed curtain walling and zinc cladding, which mirrors the elevation treatment at fourth and fifth floors on the south

elevation. This is to ensure that the materials used on this elevation do not detract from the character of the South Hill development.

The existing apartment block is split level with the three storey elevation facing the lower level Milltown Road. The Planning Report submitted with the application provides that the proposed fourth floor is set further back so as to ensure that there is no undue impact on the streetscape or adjoining properties. Also that the topography of the site allows for the two storey height along South Hill to be maintained. As shown on the elevations the existing three storey apartment building is approx. 10.5m in height with a central stair lobby and lift plant with a maximum height of 13.68m. The proposed development would raise the height of the building at ridge level to 15.38m onto the Milltown Road and 6.5m onto South Hill.

It is of note that local residents are concerned that the proposed development which will increase the height of the apartment development to 5 stories on the Milltown Road elevation is out of character with the surrounding area. They consider that this proposal will lead to duplex penthouse apartments. The elevations show that the elevations will be two storey to South Hill and appear 5 storey facing Milltown Road and regard is also had to the change in gradients north and south of the site.

The Development Plan provides standards for *Building Height in a Sustainable City*. Section 17.6.1(ii) provides details of the maximum height outside the identified areas. 17.6.1(ii)(b) of the DCDP provides that: *within 500m of various types of existing and proposed mainline, DART, DART Underground and Metro Stations: 6 storey residential/ 6 storey office*. It also provides in the rest of the outer city S.17.6.(ii)(c) it is 4 storeys for residential/offices i.e: *Outside the identified mid to high rise areas, all proposed buildings will be assessed against the qualitative and quantitative standards set out in the development plan, including those standards addressing local character, streetscape, open space, daylight and amenity of existing and future residents*.

The First Party provides that the additional height is acceptable at this location given the proximity of the site to the Milltown Luas line (within c.400m) and the need for sustainable development in close proximity to public transport lines. The Council's F.I request noted that S.17.6(ii)(b) does not apply to the Luas Light line and requested the proposal be revised to comply with the height policy in the DCDP. Section 17.6.2 provides a Definition of a High Building and a 4 storey building would be included in the low rise category i.e. below 13m in height for a residential building. The proposed development is not located in a mid-rise area as referred to on this relevant table.

## 9.4 Open Space

A total of 368sq.m of open space is proposed within the overall proposal, which accounts for nearly 37% of the total site area. The public open space comprises the following:

- 226sq.m at ground floor level comprising balconies and south facing public open space area.
- 64sq.m at first and second floor level in the form of private balconies.
- 74sq.m at third and fourth floor level in the form of private balcony and terrace areas.

The overall proposal incorporating all 6 apartment units and the proposed 2 duplex units equates to 30 bedspaces. It is provided that revisions to the proposal have now accommodated open space at a rate of 12sq.m per bed space. The current proposal therefore provides 368sq.m of higher quality south facing open space, by way of individual balcony and terraces and private communal open space. While public or communal open space is not provided within the current scheme the proximity of the River Dodder Park on the opposite side of Milltown Road is also noted. It is considered that the increase in balcony and terrace sizes will be beneficial for the existing apartments.

As given on the application form the proposed plot ratio is 0.84 and proposed site coverage is 0.18. It is provided that the density achieved on site as a result of this proposal equates to 80 units per hectare. Section 17.4 of the Dublin CDP 2011-2017 refers to plot ratio of 0.5 -2.0 permitted in the Z1 zoning. Section 17.5 refers to site coverage of 45-60% being permitted in this zoning.

## 9.5 Regard to Condition no.9 and to Modified Plans

This provides: *The development shall be revised as follows:*

- (a) The fourth floor of the development shall be omitted with an overall building height of four storeys and below 13.0 metres, including plant rooms.*
- (b) The third floor shall be revised to accommodate a maximum of two residential units to comply with the residential quality standards of the Dublin City Development Plan 2011-2017.*

*Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the occupation of the development.*

*Reason: In order to comply with the height standards of the Dublin City Development Plan 2011-2017.*

Concern has been expressed by both First and Third Parties that this Condition unduly alters the scheme as originally applied for. The First Party consider that it is unnecessary, that Section 17.6 allows for more flexibility relative to height and it should be removed from the permission. The Third Party who object to the original proposal consider that the scale of the modifications that would ensue goes beyond the remit and limited flexibility as understood by Section 35(4) *point of detail* of the Planning and Development Act 2000(as amended). Also that it would not allow them an opportunity to object to the revisions to the proposed development which may be substantially different to that which permission was originally applied for.

The First Party has included a mezzanine option in response to condition no.9, for consideration by the Board. They provide that this broadly meets the height requirements of the Development Plan but is not their preferred option. The revised plans show that the proposed development has been modified so that the height has been reduced to 14.6m facing Milltown Road with a sloping roof so that the height of the elevation to South Hill is reduced to 13m. The elevations and sections show the profile of the existing and proposed building and regard is had to the differences in the layout of the proposed original and modified floor plans. Photomontages showing the existing, proposed and mezzanine options from various viewpoints have been submitted.

As shown on the mezzanine plans the proposed glazed curtain walling, has been replaced by additional zinc cladding. It is considered that this will make the building appear more top heavy. The rear elevation facing South Hill has been reduced from c.7m to 6m. The set back to the fourth floor as shown in the original plans has not been included. The original drawings show the total usage of the space for living accommodation in the floor plans for the proposed third and fourth floors. The modified plans show that the bedroom areas would be reduced and that the fourth floor would allow for more limited living accommodation but in view of the alterations to the roof profile would include considerable storage and void areas. The balcony and terrace areas for the existing apartments are shown similarly increased, which will be of benefit to existing residents.

It is of note that while option 2 i.e the modified plans reduces the overall height it is only 13m on the rear elevation facing South Hill, that facing Milltown Road is shown 14.6m. The overall increase in height has not been reduced to 13m. and it is not considered that the revised plans comply with Condition no.9. Section 17.6.2 provides: *For the sake of clarity plant rooms are included in the height definition. The height definition is based on an average floor to ceiling height of 3.0m for residential schemes and 4.0m for offices.* It is also noted that this Section does not appear to consider flexibility in heights relative to definitions of low/mid/high rise. While the First Party Appeal assesses each proposal, and notes the unique site context relative to changes in levels and proximity to public transport, it is not considered that an Urban Design Statement to include all the details described in S.17.6.2 has been submitted.

Having regard to the floor plans submitted, it is noted that if the Board decided to reduce the height and permit the proposed Third Floor only that this would result in

as shown on the proposed floor plans two apartments with a floor space of c.70sq.m and c.64sq.m respectively which in accordance with the Residential Quality Standards (S.17.9.1) would allow for two no.one bedroom apartments i.e both would be less than the minimum standard of 80sq.m for a two bedroom apartment. However it is noted that the existing two bedroom apartments appear to be 80sq.m in floor area. Therefore it is considered that the proposed apartments could be reconfigured so that they would comply with this minimum floor area, also the balconies could be extended as shown for those proposed and facing south for the existing apartments. This would comply with the residential quality standards. As shown on the Sections submitted it would also reduce the height to the 13sq.m. It is recommended that if the Board decide to permit that it be conditioned that revised plans showing this be submitted. Therefore I would recommend that a condition similar to the Council's condition no.9 be included.

## **9.6 Access and Parking**

It is proposed to use the existing gated access for the apartment development off South Hill. The existing 9no. carparking spaces are to be retained within the enclosed on-site parking area, this will provide for one space per unit and a disabled space. In order to meet current development plan standards one of these spaces has been designated as a disabled space. Therefore no increase in onsite parking provision over what is already provided is proposed. In view of the limited scale of the carpark it is not considered possible to provide additional onsite parking.

Bicycle parking spaces are maintained at ground floor level and there is capacity for 9 spaces in the current arrangement. Bicycle parking is to the rear of the block at ground floor level, adjacent to the bin storage area and it is considered that if the Board decide to permit that a covered cycle parking area should be provided.

There is concern from local residents in South Hill that there is insufficient car parking on site and in the area and the proposed development which does not include additional onsite parking provision or visitor parking will worsen congestion in the area. There is already an issue of congestion relative to on-street parking in the vicinity and there is concern this proposal will lead to additional traffic and traffic hazard in the area. Also there is concern regarding additional development in that the visibility at the existing access from the apartment block is onto a bend and the sole access from South Hill onto Milltown Road is somewhat restricted.

Section 17.40.13 provides that one carparking space shall be provided off-street within the curtilage of the development for usage allocated per residential unit. Table 17.1 refers. The Council's Road and Traffic Planning Division does not object to the proposal and considers that due to the limited size of the development that it will not have a significant negative impact on the surrounding road network. They recommend that one space be allocated per residential unit and numbered as such, also that cycle parking be secure, conveniently located, sheltered and well lit. It is recommended that allocation of parking spaces and cycle parking be conditioned should the Board decide to permit.

### **9.7 Impact on Residential Amenity**

South Hill is an established residential area of detached and semi-detached dwellings. At present taking into account the configuration of the site there is only a view of the top of the lift shaft area and the wall and gated access when looking southwards along South Hill. The mountains can be seen in the distance. While some concern has been expressed about loss of this view, the First Party submit that the proposal will enhance the street view from South Hill. They refer to concerns about sight lines and consider that the proposed units will read as a pair of modern 2 storey dwellings which complete urban lines. Also that it would not have any undue impact on the residential amenities of adjoining properties at South Hill and along Milltown Road. They provide that in view of the configuration of the elevations including fenestration that overlooking or loss of privacy to adjoining dwellings will not occur. In view of the setback and the southern aspect this would appear to be the case, provided balcony screening of an appropriate finish and height is included. It is noted that windows are not proposed in the side elevations which is important to prevent overlooking and all windows facing the northern elevation should be obscured glazed.

While it is not considered that the proposed development in view of its set back from the site frontage will have a particularly adverse impact on South Hill, there will be some reduction in views. However if revised plans are submitted as per the recommendations above, it is not considered that this proposal will have much impact on the views from South Hill or on views from Milltown Road.

The issue of the need to avoid undesirable precedent has also been noted. Regard is had to Ref. PL29S.228691 referred to by the appellants. In this case permission for the erection of two no. terraced mews houses to the rear of properties 74 and to the side of no.74 and 57A South Hill was refused by the Board for 2no. reasons including that the proposed development would detract from the character of the streetscape and seriously injure the residential amenities of the area and would lead to traffic hazard and obstruction of road users. It is noted that each case is considered on its merits and that proposal is relative to a different site and to a different form of development to the current proposal. Therefore it is not considered to be particularly relevant in this case.

### **9.8 Impact on Zone of Archaeological Interest**

As shown on the Land Use Zoning Map H the southern part of the site facing Milltown Road is located within a zone of archaeological interest. Section 17.11 of the Dublin CDP relates to Development on Archaeological sites and in Zones of Archaeological interest. Given the established principle of residential development on this site, and that the current proposal does not increase the footprint of the existing apartment building it is not considered that there will be an impact on archaeology in this case.

### **9.9 Infrastructural issues**

There is concern that at the time of construction of the original apartment block SUDS was not given the degree of consideration that is now merited and that the



proposals are not satisfactory relative to SUDS. It is recommended that if the Board decide to permit that proposed development including the design of the balconies and terraces incorporate SUDS in the management of stormwater and comply with current standards relative to drainage.

#### **9.10 Appropriate Assessment**

The Planning Report submitted with the application confirms that there are no Natura Sites within the vicinity of the site and has regard to the Grand Canal pNHA located 2.5kms to the north of the site. It is considered that having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

#### **9.11 Other Issues**

**External Finishes:** Should the Board be minded to grant permission I consider that it reasonable that a condition regarding external finishes be included having regard to the City Development Plan standards for such a development at such a site sensitive location.

**Construction Works:** Concerns have been expressed regarding construction relative to the steep gradient of the site. In response the First Party provide that the existing apartments on site have set a precedent for development with no issues regarding gradient or difficulty in terms of construction. Therefore the main impact that would arise to the amenities of this area would result from the construction phase. During this phase the construction works would inevitably result in noise, dust, building debris and so forth. There is also potential for obstruction of traffic movements along South Hill during deliveries, notwithstanding, such nuisances would be of a temporary nature and would be required to be carried out in compliance with standard codes of practice. It is also standard planning practice to include conditions that seek to minimise such impacts in the event of a grant of permission.

**Development Contribution:** Having examined the terms of the City Council's applicable development contribution scheme it is noted that the proposed development sought under this application is required to pay a S48 financial contribution in the event of a grant of permission.

#### **10.0 CONCLUSIONS AND RECOMMENDATION**

Having regard to all of the information submitted and to the Assessment above, to relevant planning policy, the First and Third Party grounds of appeal and the responses made and having visited the site, I would consider that it is important to note that this proposal is for permission for an additional two no. residential units to this three storey apartment block that has been previously permitted. Therefore the principle of the development has already been accepted on this site. It is considered that the proposed development will not, subject to the conditions, including modifications recommended below have an adverse effect on the amenities of adjoining properties or on the Z1 residential land-use zoning.

It is therefore recommended that permission be granted subject to the conditions below.

### **11.0 REASONS AND CONSIDERATIONS**

Having regard to the scale and height of the existing three storey apartment building and residential land use zoning of the site, and to the character of the area it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of surrounding dwellings or the visual amenities of the area. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

### **12.0 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 1st day of September 2015 and by the further plans and particulars received by An Bord Pleanála on the 14th day of October, 2015 and the 6<sup>th</sup> of November 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 proposed development shall be amended as follows:
  - (a) The top floor of the development shall be omitted so that the overall building height is four storeys and below 13.0 metres, including plant rooms.
  - (b) The third floor shall be revised to accommodate a maximum of two residential units to comply with the residential quality standards of the Dublin City Development Plan 2011-2017.
  - (c) An area for bin storage relative to the proposed units shall be shown included adjacent to the existing bin storage area on the ground floor.

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

Reason: In the interests of visual and residential amenity and in order to comply with the height standards of Section 17.6 of the Dublin City Development Plan 2011-2017.

3. Prior to the commencement of development details of the external finishes including screens to balconies and terraces shall be submitted for the written agreement of the Planning Authority.

Reason: In the interest of visual and residential amenity.

4. a) One on-site car parking space shall be permanently allocated to each residential unit and numbered as such. Car parking spaces shall not be sold, rented or otherwise sub-let or leased to other parties.  
b) Cycle parking shall be secure, conveniently located, sheltered and well lit.

Reason: To ensure a satisfactory standard of development and in the interests of residential amenity.

5. 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.

6. Site development and building works shall be carried only out between the hours of 07.00 to 18.00 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 residential amenities of property in the vicinity.

7. 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 noise management measures and off-site disposal of construction/demolition waste.

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

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation

provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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Angela Brereton  
Planning Inspector  
Date: 11<sup>th</sup> of January 2016