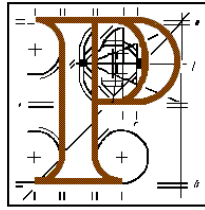


An Bord Pleanála



Inspector's Report

PL06D.245755

DEVELOPMENT:- Demolish former furniture store and construct 48 no. apartments, basement parking and ancillary works at Deerpark Road, Mount Merrion, County Dublin.

PLANNING APPLICATION

Planning Authority: Dun Laoghaire Rathdown County Council

Planning Authority Reg. No.: D15A/0121

Applicant: Chris and Niall Power Smith

Planning Authority Decision: Grant Permission

APPEAL

Appellants:

1. Gerard Cosgrove
2. Eoghan Mooney
3. Michael and Mary Kelly
4. Peter and Cait Maguire

Type of Appeal: Third V Grant

Observers:

1. France Carr
2. John Flood and others
3. Rosaleen Flanagan
4. Christopher A. Murphy
5. Donal King
6. Owen and Amy Callan
7. Cathy and Stephen Doyle

Date of Site Inspection: 25th February 2016

INSPECTOR: Mairead Kenny

1.0 SITE LOCATION AND DESCRIPTION

The site is located in the predominantly residential suburb of Mount Merrion and in the heart of the commercial and community facilities at Deerpark Road. The site is bounded to the south by Deerpark Road and to the north by Wilson Road. Immediately to the east of the site is a commercial premises which contains a public house and a café with some retail element – this site is referred to as Kiely's. To the south-east is a large natural style playground. To the south-west is a two-storey parade of shops which includes a few cafes, retail outlets, a pharmacy and other units. To the west / north-west on Wilson Road are single/dormer dwellinghouses and on Deerpark Road there is a small motor repair outlet to the south-west. Further east beyond the Kiely site is a roundabout and close to that is a Church and a school. The dominant form of development in the area comprises two-storey houses, which are relatively low density. The road to the east of the public house is North Avenue. Deerpark Road is stated to be of average width of 7.5 metres. It contains a mix of linear and echelon on-street parking. There is a 3 tonne weight vehicle restriction in place. In general the streets in the area have traffic calming measures.

The site is of stated area of 0.335 hectares. It contains an existing building of stated area of 2, 300 square metres. This is the former Stella cinema which was constructed in 1956 and which has been used since the mid 70's as a retail outlet by Flanagan's Furniture. The existing building is positioned towards the east of the site close to the public house. The western half of the site is in use as a surface car park, presently open to use by any member of the public.

The site has a 60 metre frontage onto Deerpark Road. At its northern end at Wilson Road the site has only a narrow frontage in the region of 4 metres. The remainder of the plot at Wilson Road to the north of the site is in the ownership of a third party and is laid out as an amenity lawn. The site location map received by the Planning Authority on 3rd July 2015 indicates that the land ownership extends beyond a low boundary wall at the northern end of the site and thus would encompass the trees at this location. Directly to the rear of the former cinema building there is a gated entrance which although it may have been used at one stage as a pedestrian access would appear not to have been used for some time.

Pedestrian circulation in the area between Wilson Road and Deerpark Road would primarily be by way of the path between the Flanagan site and the houses at Wilson Road and the motor factors at Deerpark Road. The application drawings indicate that part of this path is within the ownership of the applicant and that part of it is outside of the applicant's ownership.

The site is described further in the assessment section of this report. Its salient features include the significant difference between the level at Deerpark Road and ground level at Wilson Road. There is also a high level of screening provided by the existing *Leylandii* trees within the site. To the north-east of the site is a largely vacant plot of land where there is permission for a number of dwellinghouses.

Photographs of the site and surrounding area which were taken by me at the time of my inspection are attached.

2.0 PROPOSED DEVELOPMENT

Permission is sought for the following:

- Demolition of the existing furniture store
- Construction of a mixed use building of 5,214 square metres
- Height of building at Deerpark Road to be three-storey and at Wilson Road to be six storey over a basement car park
- Development to comprise 48 apartments and 282 square metres of office space separated into four units
- Residential development to include balconies, awnings, refuse and residential storage
- Basement car park to include 92 car parking spaces and 48 cycle spaces and 6 motorbike spaces –revised to 79 spaces and 131 cycle spaces including 28 cycle spaces in the courtyard
- Residential units to be 10 no. one-bed apartments, 27 no. two-bed apartments, 11 no. three-bed apartments
- Amenity space, ancillary works including landscaping and solar panels at roof level
- Vehicular access to be from Deerpark Road
- Other access by way of the existing paths connecting between Wilson Road and Deerpark Road.

The application documents were revised by a request for further information and clarification of further information. The drawings received on 3rd July 2015 and 25th September 2015 refer. The submissions include:

- Architect's report (Cathal O'Neill Architects)
- A number of three dimensional representations of the scheme including submissions of 19th February 2015, 3rd July 2015 and photomontages of 3rd July 2015
- Landscape Report (Mitchell and Associates)
- Arboricultural report (Goodwin)

- Planning Report (Manahan Planners)
- Traffic Impact Assessment (TPS)
- A letter regarding part V
- Ground Investigation report (further information submission)
- Quality Audit (Roadplan - further information submission).

3.0 PLANNING HISTORY

Under PL06D.242455 the Board upheld the decision of Dun Laoghaire Rathdown County Council to refuse permission for development comprising demolition of the furniture store and construction of a two-storey convenience shop of 3,137 square metre gross floor area (1,615 square metres net sales area), a 975 square metre café, other facilities including 93 parking spaces for cars, 20 bicycle parking spaces, a brick faced tower 16 metres high and other ancillary site works. The reasons for refusal may be summarised as follows:

- Not satisfied in the absence of a retail impact assessment that the proposed development would not lead to over provision of retail facilities sufficient to undermine the viability of existing businesses in the area.
- Having regard to the prominent location of the site and the established pattern of development in the area it is considered that the proposed development would not comprise a sufficiently high quality of design particularly the side and rear elevations on this landmark site, would relate poorly to the areas built fabric in terms of its bulk, visual connection, layout, animation and scale and would seriously injure the visual amenities of the area.
- Not satisfied on the basis of the submissions made that there is sufficient capacity within the surrounding road network to accommodate the traffic generated by the proposed development and not satisfied that adequate levels of car parking have been provided within the curtilage of the site – proposed development would result in on-street parking and generate traffic movements that would lead to serious traffic congestion and endanger public safety by reason of a traffic hazard.

The date of decision in the above is 21st January 2014. The decision of the Board is similar to the Inspector's recommendation. I note the inclusion by the Board in reason 2 of the explicit reference to the side and rear elevations of the building.

Under PL06D.224068 the Board upheld the decision of the Planning Authority (Reg. Ref. 7A/0457) to grant permission for 4 no. semi-detached houses at a site adjoining 54 Wilson Road. Recently the Planning Authority granted an extension of permission until 30th October 2017

There is a live application for 4 no. houses being considered by the Planning Authority at the same site adjoining 54 Wilson Road under Planning Reg. Ref. D15A/0799. A request for additional information has issued by the Planning Authority. Details of the application proposal are on file.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and Technical Reports

The report of the **Case Planner** dated 14th April 2015 notes as follows:

- 6 metre level difference between Deerpark Road and Wilson Road.
- The issue of demolition was considered in detail previously and is acceptable.
- Neighbourhood centre at 1.2 hectares is relatively large in view of the population served.
- Proposed development provides for an appropriate mix in view of the nature of the neighbourhood centre.
- Density in excess of 50 units per hectare accords with Council's policies under RES3 and RES4 and to the location of the site relative to the N11 QBC.
- Further information required to demonstrate that the proposed development would not impact on the character or amenities of the area.
- The site was previously described as a pivotal site together with Kielys and it will set the tone for the neighbourhood centre and set a precedent for any redevelopment of the two adjoining sites.
- Existing building not attractive and detracts from the neighbourhood centre.
- Details of design and finishes required.
- Nearest opposing window is at 54 Wilson Road and is 62 metres away at which distance would not impact on privacy.
- A distance of 22 metres between closest window and path at vacant site so development potential not affected.
- Central position of the development on the site is appropriate as it allows for redevelopment of the Kielys site.
- Mix of units complies with Development Plan section 16.3.3 (iii).

- High standard of residential amenity afforded to future occupants
- Amenity space provided exceeds minimum requirements.
- Possible excavation of granite bedrock needs to be investigated.
- Inconsistency between site location map and site layout.
- Further information is required.

The report of **Drainage Planning** dated 13th April 2015 recommends further information.

The report of **Parks and Landscape Services** dated 14th April 2015 recommends further information and notes that a map enclosed states that neither the open space nor the laneway are shown to be in the Council's ownership.

The report of the **Transportation Planning Section** dated 31st March 2015 requests a range of further information including a Quality Audit, details of parking and ramped entrance and demonstrate revised details for the required 100 bicycle parking spaces and for lighting along the laneway. Construction management plan measures should indicate potential conflicts with local shops and pedestrians and other matters.

The report of the **Housing Department** dated 27th February 2015 indicates that the proposed financial contribution is capable of complying with part 5.

The report dated 16th July 2015 of **Irish Water** to the Planning Authority indicates no objection.

The report dated 15th July 2015 of the **Drainage Planning Section** indicates no objection subject to prior agreement on details of a proposed surface water diversion.

The report of the **Parks and Landscape Services** dated 21st July 2015 indicates no objection subject to a tree bond in the amount of €1,500 to provide for replacement of trees which fail after planting and having regard to the report of the arboricultural consultant relating to any remedial tree surgery. The results were a requirement to appoint an arboriculturist and to retain the services of a landscape consultant.

The report dated 23rd July 2015 of the **Transportation Planning Section** indicates that clarification of further information is required in relation to the ramped entrance, basement parking, bicycle spaces, other minor matters.

The report of the **Case Planner** dated 29th July 2015 recommends clarification of further information be requested. The report reiterates much of the previous report and largely summarises the comments of the internal sections of the Planning Authority. A verbal report received from the Transportation Planning Section is referenced. This indicates no objection to the proposals for waste facilities. The proposals for the right of way will be subject of a condition. The matter of rock excavation has been adequately addressed by the Planning Authority.

The Case Planner further refers to the photomontages which indicate that the development enhances the street as viewed from views 1, 2 and 5. The building reads as a flat roofed three-storey building. Treatment of the front and side elevations break down the long elevation and provides an appropriate rhythm to the building. View 3 it is stated to show that the proposal is a considerable improvement in visual terms. View 4 is referenced in terms of much of the building being obscured by vegetation but this photomontage is also stated to show that the proposed development will represent an increase in height from this vantage. Therefore the quality of materials and landscaping (which have been assessed) are important to ensure that the development assimilates satisfactorily. While the materials differ from the surrounding properties they are considered appropriate. The extent of glazing will lighten the structure. The solid elements are all of high quality durable materials. A condition regarding external finishes is appropriate.

Clarification of further information is required in relation to the western elevation of the podium. The relationship with the shops at Deerpark Road and 49 Wilson Road shows that the development is 1.5 metres and 3.2 metres higher respectively. The existing building rises to 15 metres while the proposed is about 1 metre above this level. The highest point of the new building is towards the centre of the site. Shadow diagrams demonstrate that the proposed development does not give rise to significant overshadowing. The car park will be naturally vented. The solar panels will be less than 0.3 metres in height and will not be visible from street level.

The final report of the **Transportation Planning Section** indicates no objection to the development subject to conditions including

- Further agreement on pedestrian priority at the ramped entrance, minor rearrangement in the basement, recommendations of quality audit with the exception of the zebra crossing to be enacted, works to be at applicant's expense and subject to licences and construction management plan to be complied with.

The final report of the **Case Planner** dated 20th October 2015 recommends permission. The development is considered to be a high quality scheme for this neighbourhood centre and will contribute positively to the streetscape and public realm and will not detract from the amenities of the neighbourhood centre or residential properties.

4.2 Planning Authority Decision

The Planning Authority decided to grant permission subject to conditions including

- Development to be in accordance with the plans and particulars including the further information received on 3rd July 2015 and the clarification of further information received on 25th September 2015.
- Detailed design of entrance at Deerpark Road to be agreed.
- Implement at applicant's expense the recommendations of the Quality Audit feedback form with the exception of the zebra crossing.
- Parking space 29 to be admitted.
- Management Company.
- Part V.
- Surface water requirements.
- Tree bond in the amount of €1500.
- Appointment of qualified arborist for the period of construction – developer to implement recommendation of arboricultural method statement and tree protection plan.
- Engagement of a landscape architect who shall sign a practical completion certificate when all landscape works are fully completed and shall submit a certificate to Dun Laoghaire Rathdown County Council.

5.0 GROUNDS OF APPEALS

Gerard Cosgrove (Stanstead), North Avenue, Mount Merrion

The appeal submitted on behalf of Gerard Cosgrove may be summarised as follows:

- Excessive scale, totally out of context, contrary to policy in relation to building height.
- Contrary to neighbourhood centre zoning.
- Referring to previous decision of the Board (PL06D.242455) fails to provide retail/services.
- Fails to appropriately address Deerpark Road and Wilson Road.
- Merits of art deco façade of old cinema not addressed.
- Adverse impact on residential amenities including of permitted residential development Reg. Ref. 07A/0457/E.
- Inadequate open space.
- Need for a master plan to consider the site in conjunction with other adjoining neighbourhood sites.

Eoghan Mooney (20 Deerpark Road)

The main points of this observation are

- Road network unsuitable to take additional traffic in view of its role as a through route and to future development of other sites in the area.
- Contrary to policies 15.2 and 16.10.2 of Dun Laoghaire Rathdown County Development Plan. Impact on local traffic level and narrow width of road are not properly considered by the Planning Authority and in the applicant's submission.
- Access to public transport is sub optimal as buses are congested and local residents currently have to drive to a point where school children of Coláiste Eoin and Coláiste Iosagáin disembark.
- Grossly excessive plot ratio at 1.4 in view of distance to QBC (480 metres) and precedent for Kielys and Deerpark motors would be set which would result in a truly massive development across all three sites which would be completely unacceptable.

- Should be limited to the existing four-storey height of the existing building and within a considerably reduced footprint to ensure that it conforms with the Council's strategy for Deerpark neighbourhood centre and does not resemble the much higher developments along Stillorgan dual carriageway or in Beacon south quarter – Mount Merrion is a different type of area being a low rise residential area.
- The area is already very busy in terms of traffic due to existing commercial and community facilities and adding another 100 vehicles risks creating an increasingly unsafe and congested road traffic environment.
- Difficult to see how it conforms to the neighbourhood Development Plan for Mount Merrion.
- In summary the two main issues are that it should be significantly smaller in height and footprint and should not set a precedent for high rise developments at Kielys and Deerpark motors.

Michael and Mary Kelly (47 Wilson Road)

The main points of this appeal are:

- a four storey scheme would have been welcomed and would have been consistent with the Development Plan
- design, scale, visual impact and character would injure amenities
- facilitates a financial contribution in lieu of social housing
- will be visible from Killiney Hill and would overlook entire area
- exit is unsafe due to visibility constraints
- failure to provide neighbourhood services and contrary to zoning
- Kielys pub which has been recently sold is on lower ground and if seven storeys is permitted on the adjacent site then a proposal for nine storeys is likely at the Kiely's site
- demolition is of concern in relation to asbestos
- need for architectural or cultural assessment of the old cinema
- inadequate open space within the development
- height of existing building should not be a guideline - in any case the development is higher
- excessive density and plot ratio and site coverage
- inadequate width of Wilson Road and Deerpark Road which are used by residents for parking
- inadequate parking in area generally and in proposed development

- indemnity required against damage to property resulting from rock excavation
- construction phase impacts
- incorrect to indicate that elderly residents will buy into the development
- specific concerns related to my house include overlooking from apartments 29-32, 39-42, 45 and from the penthouse
- a daily season overshadowing graph is required
- vibration, dust, dirt and noise including requirement for rock breaking
- removal of trees, inadequate planting and inadequate tree bond
- permission should be refused and the potential at Kiely's site considered.

Peter and Cait Maguire (54 Wilson Road)

The main points of this appeal include

- would support appropriate development on the site
- fails to take account of residential nature of the area and 30 metre proximity
- ground levels on northern side of Wilson Road are to 3-4 metres below the proposed development site
- would have an overbearing impact on existing and permitted houses and unduly overshadow and block natural light to these premises
- monumental size and bulk of the overlooking building will be overbearing
- not compatible with policy in article 4.8 of building height strategy for the overtly suburban area of Mount Merrion where two-storey heights are recommended or in the case of corner sites or larger sites three to four storeys development
- would be the highest building in south Dublin and would be overly dominant
- there is some limited protection for these trees in the local Development Plan and some implied conditions which require more precision and clarity
- tree bond is grossly inadequate
- proposed development would be directly south of 54 Wilson Road and the site is 3 metres higher
- shadow study is inaccurate and inadequate and will unduly restrict natural light and daylight into our house and the permitted development (07A/0457/E)
- previous reason for refusal by the Planning Authority clearly indicates that the scale and mass was unacceptable which the Inspectorate and the Board upheld
- proposed development offends to a greater extent against relevant principles

- scale and mass is significantly greater and there is no effort to compliment or enhance residential or business amenities or to animate the streetscape or link the site to Deerpark Road
- an oral hearing is requested
- enclosed letter of objection to the Planning Authority notes in addition matters including overlooking of 48 Wilson Road, traffic impacts on the area of which has a larger number of trips by children, the need for realistic surveys of traffic, felling of trees, public lands at Wilson roadside enhances views from apartments
- the trees were specifically planted to improve privacy of 52 and 54 which were severely overlooked and there has been no consultation with successors of title for removal of these trees and no consent will be given – the trees are now at a height which affords screening
- there is no right of way between the site and Wilson Road.

6.0 OBSERVATIONS

Donal King (30 Deerpark Road)

The main points of this observation include

- Report of TPS Limited dated June 2015 fails to take account of the busy nature of Deerpark Road between 8.00a.m. and 9.00a.m. (due to schools and commuters).
- The comment in 8.6 contravenes 8.5.
- Report of Roadplan Consulting is lacking detail with respect to traffic and the recommended traffic management plan is not detailed or demonstrated to be feasible.
- Unacceptable risk to safety of children would result during construction and after operation in view in particular of proximity to newsagents and playground.
- Noise, dust and safety issues are not addressed.
- Proposed development should not exceed existing height.

- I support comments made by Dr. Mooney in his appeal.

Owen and Amy Callan (44 North Avenue)

The main points of this observation include

- The height of the development is excessive and will compete in height with the church and would tower over houses
- the development would interfere with sightlines and overlook houses
- the rationale for the development seems to be the replacement of an existing building with one which is even larger and this is not justified as the development does not enhance or animate the street
- precedent for other sites
- the nature of this area is low rise and requires development of different scale to that permissible at Beacon South Quarter for example
- would give rise to a large increase in road traffic in the area which already has a large amount of traffic
- difficult to see how this development would form part of the neighbourhood plan for Mount Merrion as there is no benefit or amenities to local residents
- the development should be significantly smaller in height and footprint and should not set a precedent for adjoining sites.

Christopher A. Murphy (25c Deerpark Road)

The observer supports the appeal of Gerard Cosgrove.

Cathy and Stephen Doyle (43 Wilson Road)

The main points of this observation include

- progress and change are inevitable and often of benefit but the proposed six storey development would irrevocably change our street / village and overshadow the area
- the sole benefit would be the investor / developer
- a lesser version of the scheme might be the greater one and a development which is in harmony with the area and its streetscape and environs can and should be salvaged from the proposal.

Rosaleen Flanagan (45 Wilson Road)

The main points of this observation include

- The height is not in keeping with the area or with the development plan
- the extra traffic will greatly affect residences when you take into account the traffic calming measures which are in place along a road adjacent the building.

John Flood and others

The main points of this observation include

- The development is totally out of character with surrounding buildings
- the height and mass would dominate the area and overlook houses and gardens and would have a much greater impact than the existing building
- the development is contrary to section 4.8 of the *Building Height Strategy*
- removal of the existing parking facility and creation of additional demand will result in a serious traffic and parking problem on Deerpark Road which is already a bottleneck
- reducing the number of apartments and omitting the offices is required
- in view of the large numbers of children and elderly people safety issues arise.

France Carr (42 Wilson Road)

The main points of this observation include

- contrary to the provisions of the decision of the Planning Authority to refuse permission under planning reg. ref. D13/0313 and to references therein to the road network being deficient to deal with the additional traffic and injury to the character of the area
- height is excessive and contrary to existing laws and would remove sunlight and privacy from the small bungalows in the area
- narrow nature of road network not suitable to cater for vehicular traffic and pedestrians at the school, playground, shops and residences
- area already used for parking by people who walk to the bus stops

- visibility onto Wilson Road and Mather Road is non-existent because of illegal parking
- precedent for Kielys.

7.0 RESPONSES TO GROUNDS OF APPEAL

7.1 Planning Authority Response

The Planning Authority refers to policy RET7 which significantly refers to the suitability of residential development in larger neighbourhood centres such as that in which the subject site is located. The detailed photomontages demonstrate that the proposal is of high standard and will significantly improve the neighbourhood centre, which is at present being detracted from by the existing structure.

7.2 First Party Response

In response by the first party the following comments are offered:

- the office use was deemed preferable following objections to retail
- the form and density of the residential development is appropriate
- the proposal is almost identical in height to the existing building
- the six-storey height will be 19m from the Wilson Road kerb line and separated by a 17m wide strip which is zoned 'open space' and carefully screened with specimen trees
- the single apartment at the sixth floor is well set back
- the impact on the laneway is no greater than that which has existed and the removal of Leylandii and planting of appropriate species will immeasurably improve residential amenity and reduce the existing visual impact of the site
- the building is not of significantly greater scale than the existing and it will have more interest and will enhance the amenity of the area
- the cinema is acknowledged to be a 'blot on the landscape'
- future development on the Kiely's site will be assessed on the different criteria that apply to that site
- the proposal will not overshadow any of the appellants' properties
- the inclusion of the existing trees in the shadow analysis is defended
- the reason for refusal for the supermarket development are not applicable
- the inclusion of retail space would generate vehicular traffic and furthermore is understood to be part of the proposal for the Kiely's site

- the development would strengthen the viability of the existing businesses
- considerable effort was expended in creation of a vibrant façade
- the building is of insufficient heritage value to warrant retention
- the t-shaped plan ensures natural light and enclosure of amenity space
- as the proposal is separate to any plans for the Kielys site there is potential to provide a development of scale compatible with the area
- legal title is established and in particular the line of trees to the north are clearly and fully within the site
- existing trees are an inappropriate species and cast a dense shadow
- parking on the site is property of the applicants which is temporarily used by the residents
- we ask the Board to consider the original design for the car park with narrow aisle (4.5m width)
- rock breaking will not be required and asbestos will be safely removed
- the proposal will improve pedestrian safety in the area
- we did consult locally and also gave extensive consideration to the objections to the supermarket
- there are only 15 objections, none of which are from the owner of the undeveloped site at Wilson Road or from shopkeepers
- the design has been considered in minute detail by us and the Council to provide a high quality and sustainable development.

The basis for the above report includes the accompanying report of Manahan Planners. The latter notes in addition the detail of the zoning matrix and that the Kiley's site has recently been sold. The latter it is considered might be more suited for a higher quantum of commercial development. It also notes that one and two storey development would not be acceptable in the current circumstances. As the site contains a large building with significant height and massing which has become an established part of the pattern of development in the area replacement of the building is appropriate. This is achieved simply by moving the mass to the centre. The submission from the objector's planning consultant shows the bulk and massing of the building as viewed from Wilson Road. The apartments will be very suitable for occupation by individuals living alone in large family houses. The only significant traffic in the area is commuter traffic in the morning and evening. Traffic generated by apartment developments is minimal. Construction traffic is temporary and can be managed. There are no concerns regarding the potential viability of the office units.

8.0 POLICY CONTEXT

8.1 Development Plan Policy

The relevant plan is the Dun Laoghaire Rathdown Development Plan 2010-2016. The site is zoned 'NC' the objective of which is 'to protect, provide for and/or improve mixed-use neighbourhood centre facilities'. Residential development is permitted in principle as are Offices less than 300sqm'.

RET7 refers to encouragement of mixed uses including retail and retail services in neighbourhood centres and refers to accommodating residential development in such areas.

The plan contains a range of policies relating to the provision of residential development and support increased residential densities. RES3, RES4 refer. RES12, RES13 and RES15 refer to provision of community facilities and RES14 refers to high quality design.

Variation 5 refers to the adopted Building Heights Strategy. The site is within the 'overtly suburban areas' including Mount Merrion where a general recommended height of two-storeys will apply and in the case of apartments or town-house development or commercial developments in the established commercial core a maximum of 3-4 storeys may be permitted in appropriate locations providing they have no detrimental effect on existing character and residential amenity. Upward modifiers may apply in criteria set out in section 4.8.1 – where two upward modifiers are relevant an additional storey or possibly two may be considered.

Policy relating to transitional zonal areas is presented in section 18.2. It is necessary to avoid development which would be detrimental to the more sensitive zone.

Section 16.3.3 contains guidance and standards for apartment developments. Table 16.3 sets standards for car parking (minimum) at 1 space for a 1 bed unit, 1.5 spaces for a 2 bed unit and 2 spaces in other cases.

9.0 ASSESSMENT

I consider that the main issues in this appeal relate to:

- design
- traffic and parking
- other issues.

Design

The design of the scheme is the issue of most concern to third parties. The following issues need to be considered:

- comparison between the existing and proposed development in terms of height and mass
- density and nature of the scheme and impact on village character and how the scheme compares with that previously considered by the Board
- the impact on residential amenities including the amenities of future occupants
- whether the design complies with planning guidance for this area and is acceptable.

Comparison with existing building

I agree with the applicant that it is appropriate to have regard to the existing building on the site. Obviously, the existence of a poor quality building does not undermine the requirement that any replacement building be of appropriate scale, height and detailed design. The refusal of permission by the Board for a replacement building including for reason of insufficient design quality is noted in this regard. It is evident also that the Planning Authority sought to secure a high quality design solution in considering the current application. The existence on site of what is generally (but not universally) considered to be an unattractive structure does not over-ride normal planning requirements and third party concerns in that regard are mis-placed.

The proposed development is not dis-similar to the existing building in terms of its overall height. The first party description of the building height as being 'almost identical to the current cinema' is noted and has some basis in fact. Nevertheless as discussed below I consider that the scale of the proposed scheme is materially different.

The fact is that the proposed development, while set back from east and west site boundaries is of significantly greater volume and is developed further into the north and south of the site. The scheme also proposes a full width frontage development at Deerpark Road. I refer the Board to the some facts and figures about the two developments, which are offered as a rough guide to assist in comparing the two schemes. The figures presented are approximate but in the absence of more

detailed drawings of the existing building full accuracy is not achievable. The shadow diagram modelling together with the photomontages also capture the differences between the scheme and the existing building.

	Existing	Proposed
South elevation – distance from kerb at Deerpark Road	4m	1m
South elevation – width façade at Deerpark Road	17m at front and 24m at 12m from southern boundary	55m with 7m break in form of courtyard
South elevation – height at Deerpark Road	Varied – 3.5m to 12m at main parapet – 16m upper level of roof	3 storey – 9m
North elevation – distance to boundary	5m to site boundary	3m / first floor overhang adjoins boundary – 6 storey level is 19m from Wilson Road
Width block (east-west)	24m	2 x 24m elements
Depth block (north-south)	39m	Rear block – 35m Front block – 18m
Floor area	2,300 square metres	5,214 square metres
Site Coverage	c.28%	c.46%
Roof level - notable features	Pitched – parapet at 73.5m	Flat roof at 79.1m
Highest point	c76mOD	79.1mOD
Site Coverage	c.28%	c.46%
External finishes	Concrete is dominant material	Pale honey coloured limestone, dark red marble, extensive glazing

It is clear that the proposal constitutes a substantially intensified use of the site. While the overall height of the pitched roof is exceeded only by a few metres the

scale of the development is increased by reason of the different form at roof level, the different shape of the building at the south and the changes to the north and south building line and the overall level of development. The proposed development is also of significantly higher quality in terms of design and finishes.

Density and nature of scheme

The residential density proposed at 143 units per hectare is high by any standards. In the context of the predominantly low-rise low density residential development in the environs the development would constitute a fairly radical departure from the existing pattern of development. While the existing building is also of different character and form the larger building now before the Board would further emphasise this difference in my opinion.

The references by third parties to the village character reflect the mix of community and retail uses and the pattern of development in this area. The immediate context has all of the elements and character of a village centre. Views over the city and bay together with the large natural style playground emphasise the suburban nature. I note the references by third parties to the Stillorgan Bypass / Beacon South Quarter and agree that this is a very different context.

I consider that the largely residential nature of the scheme is acceptable taking into account the existing retail units, zoning objective and traffic issues, discussed further below.

In relation to the contribution of the new building to the streetscape at Deerpark Road I consider that the Deerpark Road block it is largely acceptable. The three storey height is marginally above the roof ridge level of the parade of shops. The external finishes include large amounts of glazing and marble detailing which act to lighten the structure while also reflecting the colour palate in the area. The façade is broken in the centre by a courtyard which in conjunction with the detailed design of the elevation adds interest and reduces the scale of the building as viewed from Deerpark. In general I consider that the scheme is successfully integrated into the neighbourhood centre and that it would positively contribute to Deerpark Road by the introduction of a high quality contemporary development.

When viewed from an oblique angle particularly from the south-west the form of the six storey structure to the rear is visible and I consider is not in keeping with the area. Notwithstanding the glimpsed nature of these views I consider that the scheme by reason of views of the north-south block would detract from the character of Deerpark Neighbourhood centre. However, on balance I do not consider that such an impact would warrant a refusal of permission. Similarly I do not consider that the appearance of the blank eastern façade as viewed from Deerpark is particularly objectionable (view 5 of photomontage) and my concern would be more to do with the higher elements to the rear, which would also be visible. Redevelopment of the adjacent sites would be likely in time to screen these views.

In any case such views would be experienced only from localised points and would not overwhelm the area or undermine its vitality.

I now address the views from the Wilson Road namely from the north, north-east and north-west. Notwithstanding the existing buildings at the subject site and the Kiely's site I consider that Wilson Road is of different character to Deerpark Road and I would describe it as being of residential character. Wilson Road does not have commercial buildings opening onto it but the rear of the former cinema and of Kiely's are visible. The main contributors to the streetscape at Wilson Road are the single storey houses and grass verges planted with trees and the open space strip north of the site. The likely redevelopment of an existing vacant plot subject of a current application for four houses is noted. The building at the Kiely's site is commercial but includes features common to residential properties including pitched tiled roofs and its design detail reduce its scale. The existing building on site is largely screened by Leylandii and other trees.

The position of the Wilson Road (north-south) block relative to the east and west boundaries allows for areas of landscaping and planting which would assist in integrating the development, as well as providing for the residential amenities of future occupants. Due to their elevated position the landscaping of these open spaces would not be dominant in views from Wilson Road. I consider that the treatment of the northern façade and in particular the fenestration and large expanses of ashlar granite cladding creates a monolithic appearance. I note that the hand drawn representation PP17 received by the Planning Authority on 3rd July 2017 implies that the development will read as a two-storey structure over the raised basement level (car park). The drawing is technically correct but needs to be carefully interpreted as the upper floors are only slightly recessed. Notwithstanding the 19m setback from the kerb of the upper floor, I consider that the overall bulk and height of the building will be clearly visible in wider views including from the junction to the east and from the wider context such as Killiney Hill – drawing PP16 received on 3rd July 2-15 refers. The photomontages show the proposed building obscured by trees when viewed from the residential side of Wilson Road. This is a reasonable approach to the representation of the scheme insofar as the street level trees will obscure the bulk of the development when viewed from the north-west. However, from the immediate vicinity of the site and from the north-east there would be clear views to the scheme and its scale would be apparent and in my opinion would be excessive. I note in this regard that the trees shown in the photomontages are not under the control of the applicant. I note also the extent of solar panels on the roof which will not be visible from ground level but which may cause glare when viewed from higher lands.

Issues relating to the existing trees warrant further comment. The photomontage presented shows a cluster of trees at the north-east of the site (view3) – these trees are on lands outside the site and the applicant has not indicated any consent to either their removal or retention. The photomontage should be considered in this

context. The existing trees which run the entire length of the northern site boundary appear to me to be largely within the site, which extends northwards beyond the existing low boundary wall. The removal of these trees appears to me to be within the applicant's control and to be desirable. Similarly I have no objection to the removal of the trees along the eastern and western boundaries. Following consideration of the report of specialists and my inspection of the site, I conclude that none of the trees adjacent the site are worthy of retention in the long-term. The screening value of the trees is noted. However the objective should be to ensure that new development assimilates satisfactorily without retaining these trees.

Regarding the proposed planting I note as follows. The inclusion of a specimen tree at the Deerpark Road frontage emphasises the courtyard at this location and assists in defining the two blocks. The impact of the proposed planting at podium level close to the rear boundaries will be enhanced due to the elevated position, when considered in wider views. However the main focus of tree planting is within the narrow strips around the site perimeter. There is a strip of 1.5m available at this location for planting. Street-level views to the rear of the site from close to the development (close to view 3) will include the basement parking structure, which will be 4m to 2.5m above the open space outside the site, finished with granite cladding and punctuated with vents. Taking into account the nature of the proposals for landscaping, which are appropriate to this urban environment, there will be limited screening and as a result there will be clear views to the development. While the development is of high quality in terms of its design approach and finishes, the question is whether it is appropriate to the context.

The Board's decision on the previous appeal referred specifically to the side and rear elevations. Notwithstanding the significant differences between the schemes I consider the conclusions drawn under PL06D.242455 are also relevant in the current appeal. I consider that the development would relate poorly to the built fabric in terms of its bulk, visual connection, animation and scale. This conclusion relates to the wider context in which the development would be sited and to the Wilson Road area. In terms of the 'scale' of the building I consider that substantial reduction in height is required. Regarding the 'animation' and 'bulk' the development should be modified to better integrate with Wilson Road – open spaces should be connected with the street (at least visually connected) and it should not be so obvious that this is the rear of the scheme.

With a reduction in the number of apartments and basement parking and a different approach to landscaping at the northern end of the site I consider that the scheme could contribute positively to this residential area and integrate into the low density environs. Achievement of a significant density of development is not incompatible with this objective. In my opinion the scheme proposed constitutes overdevelopment of the site. I note the response of the first party to the appeals which refers to unrealistic expectations of residents but in fact some submissions refer to four storey development.

In conclusion I agree with the third party submissions that the development six storey over basement development is excessive in the context of the immediate environs especially, having regard to the limited size of the site and the pattern of development in the area. In relation to views from the wider context it is not demonstrated that the scheme will not be visible from Killiney Hill for example. The emerging character of the area governed by Dun Laoghaire Rathdown County Council includes many relatively large buildings visible in distant views. I do not consider that refusal of permission for that reason would be warranted.

Residential Amenities

The third parties include residents from the immediate environs, where there are single storey houses at a distance of over 20m from the façade of the proposed development to the site of the existing houses. Having regard to the height of the scheme I consider that the west facing apartments and balconies would impose on the residential amenities of Wilson Road by reason of overlooking and that the development would be overbearing when viewed from the rear gardens. I consider that the development would detract from the residential amenities of the area. I note that the Case Planner's original report (page 12) refers to the need for longitudinal sections showing the relative levels of 49 Wilson Road, the lane and the proposed development; sections P2 received on 3rd July 2015 refer. I consider that this matter warrants further assessment including submission of section drawings through rear gardens in the area and a detailed justification of the impact of the scheme on views from nearby houses. Views into rear gardens may warrant mitigation. I consider that the development is likely also to detract from the amenities of no. 54 Wilson Road due to its overbearing nature and the impact on the character of the area. There is a separation distance of 24m between the opposing facades. In the context of the public street I consider that this distance is sufficient to prevent overlooking.

The potential for overshadowing is addressed in the report of the Council's planner and in the submission of a shadow analysis drawing. I agree in general with the applicant's submissions. In particular I note that the removal of screening trees which are evergreen and their replacement with deciduous species will result in reduced overshadowing. The layout of the new building minimises any overshadowing. I consider that the development is acceptable in this regard.

In relation to the amenities of the future occupants I consider that the development is acceptable being well served in terms of the internal layout and space, the provision of large balconies and the proposals for communal public open space.

Policy

I note the general policy provisions related to the neighbourhood centre zoning and increasing densities which are referenced in the planner's report.

Regarding the NC zone I agree that the zoned area is large relative to the area to be served. The site is quite close to the higher order centre of Stillorgan Shopping Centre. Deerpark neighbourhood centre is already well served by a range of shops

and the applicant's submissions refer to possible future commercial development at the adjacent Kiely's site. That is a matter for consideration under separate applications. The Planning Authority will however want to ensure that the neighbourhood objective is achieved. The Board's recent decision indicates that a supermarket of net sales area of 1,615 square metres might constitute over-provision of retail floorspace. I am satisfied that a primarily residential scheme at this site does not undermine the objectives to achieve mixed use at the neighbourhood centre and to provide for necessary local services functions. I have no objection to the scheme on the basis of the proposed uses.

Regarding density provisions the only development plan standard specified is that over 50 units per hectare be achieved at this site. That objective is met. In addition as discussed above the scheme will provide a high quality residential environment conforming to most development plan standards in terms of the mix of units, floorspace and layout and open space. The requirement for parking for the proposed development is discussed later in this report.

Third parties refer to section 4.8 of the Building Heights Strategy. That policy, adopted as variation 5 specifically identifies the Mount Merrion area as one which is overtly suburban, suited to two storey development or at most 3 to 4 storey development. The policy is not rigid and allows for situations where a minor modification in height could be considered and an increase of one or possibly two floors allowable. The requirement is that two or more 'upward modifiers' apply to the site.

Upward modifiers include location within a 500m walkband on either side of the N11 – the site is described as being 480m from the N11.

Another modifier is 'where the location or scale of existing buildings would allow the recommended height to be exceeded with little or no demonstrable impact on its surroundings' or in a dip or a hollow or near a large tree screen. As the tree screen is being removed, that is not relevant. While the site is sloping the building is not screened by the topography. I do not agree that the development of the site as proposed would have little or no demonstrable impact on its surroundings.

I consider that the only 'upward modifier' which might be relevant is the location of the site relative to the N11. Under the terms of this policy a height of up to 5 storeys might be allowable (if two modifiers applied) subject to meeting normal planning criteria. However, the policy also states that significant positive overall benefits would be required and clearly states that more than one 'upward modifier' criteria needs to be met. I do not consider that the conditions apply to allow for the application of section 4.8.1. In any case the development exceeds the allowable height of 5 storeys. I conclude that the development contravenes the development plan policy set out in Variation 5.

Having regard to the policy provision set out in Variation 5 and to the effect on the character of the area I consider that the proposal does not comply with prevailing

development plan policy and is not in accordance with the proper planning and sustainable development of the area.

Overall Conclusion

I recommend refusal of permission along the lines of the Board's previous reason 2.

Traffic and Parking

Traffic

Reason 3 of the Board's previous decision referred to the capacity within the surrounding road network to accommodate the traffic generated by the proposed development. I consider that the pattern of trip generation which would result from the existing scheme of 48 apartments and 4no. office units of total area of 300 square metres would be markedly different to that associated with the scheme for which permission was refused and the previous retail outlet. I agree with the general thrust of the report of TPS Ltd in this regard. Having regard to the data presented regarding the ratio of flow to capacity and the level of service I do not agree with the third parties that the development would materially add to traffic congestion in the area. I accept the conclusions of the Traffic Impact Assessment in relation to the capacity of the road junctions in the area and also consider that road network is generally adequate to cater for traffic arising.

Parking

The third parties in this appeal refer to the displacement of the existing parking within the site and to the additional demand for parking and consider that the scheme is unacceptable in this regard.

Regarding the use of the site as a car park at present this would appear to be entirely subject to the agreement of the owner, which could be withdrawn at any time. The former retail use would have given rise to demand for parking. Removal of the function of the site as a free public car park is not a material factor in the appeal.

Regarding the overall issue of parking in the area I note that on-street parking is not regulated by a payment scheme. I accept submissions by third parties relating to use of the streets as a park and ride by bus passengers. There were spaces vacant on street at the time of my inspection in mid-afternoon on a weekday. It is likely that the appeal site was used in part by commuters and shoppers.

The matter to be determined in the appeal is whether the development would give rise to significant overspill parking. The focus should be related to the parking generated by the residential and office uses. The original proposal of 92 spaces would have complied with the development plan standard requirement of 73 spaces for the apartments and a maximum of 3 spaces for the offices. The revised layout provides for 79 spaces, which generally complies with the development plan requirement. The requirement is 72.5 spaces minimum for residential and 1 space

per 100 square metres maximum for the office use. In the event that permission is granted the spaces allocated to the office use should be reduced to 3 no. The development is close to a QBC and notwithstanding the stated congestion of buses at peak time I consider that this is a material factor. The spaces are identified on the application drawings as being reserved for residential or office uses.

The applicant has requested that the Board consider permission for the original car park layout presented, which provided for 92 spaces and was reduced to 79 spaces following discussions with the Planning Authority. The applicant suggests that the original layout would conform to dimensions acceptable in other countries. I recommend that the requirements of the Planning Authority be imposed in this instance and that the layout presented by way of clarification of further information apply.

I conclude that the development is acceptable in terms of parking provision, subject to a condition regarding the use of the spaces.

Other issues

Demolition and Construction

In relation to the principle of demolition of the existing building I note the description in the application documentation of the building as 'extremely utilitarian and of low-grade materials more appropriate to an industrial estate at the time of its construction'. The architectural practice which prepared the application documents is an Accredited Conservation Practice. The building is not a protected structure. I have inspected the interior of the structure and considered all of the information available including the submissions on the previous appeal file. I am satisfied that retention of the building is not warranted on grounds of its architectural or cultural interest. There is no indication that the Board in considering the previous appeal had substantive concerns relating to architectural heritage.

In conclusion I agree with the assessment by the Planning Authority that the principle of demolition is established and that it is acceptable.

Regarding demolition impacts I note that the removal of asbestos and similar matters can be addressed by condition.

Regarding construction phase impacts the matters arising are best resolved between the developer and the Planning Authority prior to commencement of works. There are no unusual circumstances which would warrant further consideration of this matter at this time. In particular it has been demonstrated that rock breaking is not a material consideration.

Part V

The objection related to the lack of provision of social housing is noted. The discussion in relation to compliance with Part V is not concluded but the applicant's submissions are to date are deemed to be acceptable to the Planning Authority. I

consider that this matter is adequately resolved subject to condition in the event of a grant of permission.

Masterplan

I note the description of this site by the Case Planner as a pivotal site and one which will set the tone for the redevelopment of the adjacent two sites. It is the opinion of third parties that the development would set an undesirable precedent for adjacent sites. I agree that the potential at Kiely's in particular is a major part of the context of decision making in this case and indeed was considered by the applicant in the preparation of the scheme plans. Nevertheless I am unconvinced that a Masterplan is required in order to determine the parameters of the future development of the three sites in the neighbourhood centre. I conclude that the Board is in a position to make a decision on the current case in the absence of a Masterplan.

Appropriate Assessment

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.

RECOMMENDATION

I recommend that the Board overturn the decision of the Planning Authority and that permission be refused for the reasons and considerations below.

REASONS AND CONSIDERATIONS

1. Under the provisions of Variation 5 of the current Dun Laoghaire Rathdown Development Plan the site is located in an overtly suburban area which is generally deemed appropriate for three to four storey development and in exceptional circumstances for an additional one or two floors of development. It is considered that the requirements for exceptional circumstances set out in section 4.8.1 of Variation 5 are not met in this case. Therefore, the development of a six storey over basement development in this suburban location surrounded by single and two storey houses would materially contravene the specific planning policy and thus be contrary to the proper planning and sustainable development of the area.
2. Having regard to the prominent location of the site and to the established pattern of development in the area, it is considered that the proposed development on this landmark site, would relate poorly to the area's built fabric in terms of its height and scale and would constitute an excessive form of development, which would be out of character with the area and would detract from the amenities of nearby residential properties by reason of its overbearing nature and by overlooking. The proposed development would, therefore, seriously injure the visual and residential amenities of the area and be contrary to the proper planning and sustainable development of the area.

Mairead Kenny

Senior Planning Inspector

7th March 2016