

An Bord Pleanála



INSPECTOR'S REPORT

DEVELOPMENT: Construction of 4 houses with all associated site works.

LOCATION: 1 Rhodaville, Mountpleasant Avenue Lower, Dublin 6.

PLANNING APPLICATION

Planning Authority: Dublin City Council
Planning Authority Reg. Ref.: 3081/15
Applicant: Long Roche Developments Ltd.
Type of Application: Permission
Planning Authority Decision: Split

PLANNING APPEAL

Appellant: Long Roche Developments Ltd.
Type of Appeal: First Party
Observers: Anthony Carey (Ar Son Una Stacey)
Geraldine Hynes
Ann Farrell

DATE OF SITE INSPECTION: 23rd February 2016 and 11th March 2016

INSPECTOR: A. Dineen

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site is located at Mountpleasant Avenue Lower. The L shaped site extends to rear and side of properties located at Mounpleasant Square and Garden View. The site currently contains a light industrial unit and a detached mews apartment and a three storey dwelling in use as 4 apartments all of which are located at the rear of the site. The front boundary of the site is contained by high railing at the vehicular and pedestrian entrance of Mountpleasant Avenue Lower. The hard standing on the site and light industrial unit appears to have provided car sales and repair use previously.

2.0 PROPOSED DEVELOPMENT

The proposed development comprises the demolition of a single storey light industrial unit and mews apartment and the construction of 4 detached dwellings including the partial demolition and replacement of existing unit, modifications to access and shared courtyard and all associated site works on a site of a stated area of 913 sq.m.

3.0 TECHNICAL REPORTS

- 3.1 **Roads and Traffic Planning Division** has no objection subject conditions.
3.2 **Engineering and Drainage** has no objection subject to conditions.

4.0 PLANNING AUTHORITY DECISION

- 4.1 The planning authority issued notification of decision to issue a split decision.

The decision to grant permission pertained to: (a) The demolition of existing single storey light industrial unit and single storey detached mews development, (b) construction of House A comprising 1 no two storey plus attic level house with 1 no dedicated car parking space, (c) partial demolition, repair and renovation of House C comprising an existing 227 sq.m. three storey dwelling house including (1) change from 4 apartments into 1 dwelling (2) associated alterations to elevations (3) change to existing roof profile including new roof terrace (d) modification to access from Mount Pleasant Avenue to the shared courtyard (e) all associated site development works.

The decision to refuse permission pertained to: The construction of houses B and D comprising 2 No two storey bedroom detached dwellings with 1 No dedicated car parking space per house.

The decision of the planning authority reflects the planners report.

5.0 PLANNING HISTORY

PI Register Reference No 304/89 permission granted for a three storey block of flats.
PI Register Reference No 2047/94 permission granted for boundary treatment gates and passageway.

6.0 POLICY CONTEXT

- 6.1 The relevant document is the Dublin City Development Plan 2011-2017. The site is within an area-zoned Z2 where it is an objective to protect and/or improve the amenities of residential conservation areas. The subject property is a protected structure.

Section 7.9.11 refers the following with regard to infill development:

Having regard to policy on infill sites and to make the most sustainable use of land and existing urban infrastructure, the planning authority will allow for the development of infill housing on appropriate sites. In general, infill housing should comply with all relevant development plan standards for residential development, however, in certain limited circumstances; the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and underutilised land in the inner and outer city is developed.

In all cases infill housing should:

- Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings.
- Comply with the appropriate minimum habitable room sizes.
- Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.

Urban Design Manual – A Best Practice Guide, A Companion Document to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DoEHLG, December, 2008

This companion design manual add emphasis to previous DoEHLG guidelines and provisions that strive to achieve decent levels of amenity, privacy, security and energy efficiency from new homes and states that “privacy and amenity are extremely basic human needs. Such matters are particularly important in higher density schemes where good space standards, sound insulation and access to private open space can make the difference between acceptable urban living and a poor living environment”. In relation to useable private outdoor space it indicates that all homes should have access to an area of outside space where the residents can comfortably sit without being directly overlooked, that the area should be adequate size proportionate to the size of the home and ideally these spaces should be located immediately adjacent to the main living area of the home so that they can function as outside living rooms.

7.0 GROUNDS OF APPEAL

- It is submitted that the applicants carried out research which is reflective of national guidance that shows that a mix of units would be best on this site. With respect of site configuration it was decided to propose two reasonably sized family homes with one more modest and one smaller starter home.
- The configuration/nature of the site was challenging from a design perspective and creating a ‘sense of place’ was key to the positioning of House D to break up the potential of a prolonged back garden wall.
- Pre planning discussions were held and it was considered that discussions were worthwhile as the scheme submitted was substantially improved on the scheme submitted at pre planning stage.
- Attention was given to policy on Infill Housing as cited under Section 17.9.7 of the plan.
- It is submitted that personnel dealing with the application changed from that of pre planning stage.
- Condition numbers 3 and 4 which omitted 2 houses from the scheme is considered to have ‘butchered’ the proposed scheme resulting in poor housing mix and the underuse

of an attractive inner urban site. The scheme provides poor density and is out of scale with housing in the area.

- The proposed scheme achieves a plot ratio of 0.61, which is at the lower end of the scale as set out in the current Development Plan at 0.5 – 2.0. The site coverage is also very low at 27% as against the standard of 45%. The reduced scheme as provided for by the disputed conditions would lower the site coverage to 18% and lower the plot ratio further to 0.42% which is outside the plot ratio in the plan of 0.5.
- This is considered to be wasteful use of valuable land.
- In error it was neglected to include amended drawings for consideration of the PA showing the ridge height to House B reduce by 1.2 metres as indicated in the shadow and daylight assessment report submitted under AI.
- It is submitted that the development is unlikely to have a substantial impact on the diffuse daylight enjoyed by the occupants of No1 and 2. The ridge height does not extend above the 25deg projection from the French doors to the rear of the property.
- The likely loss of sunlight on No 1 Garden View is 0.87 of its former and the loss to No 2 Garden View is 0.85, which are within the recommendations of the BRE Guide.
- The current number of hours of sunlight which falls on the French doors in the winter period is poor at 40% due to the tunnelling effect of existing returns and the existing rear garden boundary. The existing conditions cannot meet the requirements of the BRE Guide.
- Any additional impact on the gardens/yards would be negligible.
- It is submitted that the omission of House B is not an appropriate response. Any alleged issue could have been addressed by way of condition i.e. to reduce ridge height or change roof design/profile of the house.
- It is considered that a further reduction of the overall height of House B by 600 mm to 800 mm is achievable without the loss of the upper floor. This would reduce overshadowing in the winter to the darkest months of late December and early January.
- It would be very difficult for development in tight urban sites not to impact on surrounding houses in winter.
- With respect of overlooking to rear garden of House B it is accepted that 7-9 metres is a modest separation distance however in the context of the urban make up and surrounding density it would seem to sit well.
- With regard to private open space the AI submission redesigned the layout of House A and House C to change the bedroom arrangement to reduce the open space requirement while increasing the private open space. Additionally as a result of pre planning it was decided to provide good quality shared public space on the Avenue to offset the reduction in private open space and the development plan provides for same.
- The site is very close to the inner city and the internal report outlines minimum standards of 25 sq. m. per dwelling and 5-8 sq. m. per bed space in such areas. Also the Board is referred to the Draft Dublin City Plan where open space provision has been reduced from 15 sq. m. to 10 sq. m.
- It is considered that the proposal has not been considered appropriately in light of precedents, the quality of shared open space, proximity to the inner city and policy for greater density set out in the Draft Development Plan 2016-2022.
- The plan of House D was redesigned to comply with the minimum bedroom floor area standards as set out in Policy document 'Quality Housing for Sustainable Communities – Best Practice' (2007). Issues of overlooking to the North were also addressed.

- From an urban design perspective the positioning of House D provides for a break in the Avenue to relieve the monotony of the garden wall to house A and house C. Its removal would detract from the Avenue and the quality and design of the shared space. Similarly the removal of House B also detracts from the quality of the space.
- The removal of the houses provides no guidance on the development of the Avenue or on the vacant site of House B.
- The design of the shared space was built on sound urban design principles with the use of defensive space, shared surfaces, pinch points with good landscaping details, public lighting and integrated parking and pedestrian space. Most of the houses offer passive surveillance. The mix of housing and scale and shared materials provides a coherent public/private realm design. All the finishes are of high quality that will improve with time. The loss of houses B and D will significantly impact the intention of the scheme. The Avenue concept will be lost and the sense of neighbourhood will be gone.

8.0 OBSERVATIONS

Anthony Carey on behalf of Una Stacey, No 4 Garden View.

- Concern is raised regarding the negative impact the proposed development would have on No 4 Garden View and adjoining houses particularly with regard to overshadowing, interference with privacy and natural sunlight/daylight due to the proximity of the proposed development.
- No 4 has had the benefit of a two storey extension to the rear of the property which is not reflected on the drawings.
- At present No 4 is not overlooked. The proximity of the rear windows does not comply with required distances under planning regulations and there is concern with privacy issues.
- Parking in the area is already problematic and it is referred that the properties have multiple rooms therefore 1 parking space per dwelling is unlikely to be sufficient.
- The site is zoned Z2 'to protect and improve residential amenities'.
- Concern is raised regarding impacts on amenities at Garden View.

Geraldine Hynes, Beechlawn, Holmston Avenue, Dun Laoghaire, Co Dublin – owner of No 3 Garden View.

- Concern is raised regarding the aspect of the proposed development and the impacts on the residential amenity of No 3 Garden View and adjoining properties.
- The zoning objective for the area is Z2 '*to protect or improve the amenities of residential conservation areas*'. It is submitted that the existing gardens at Garden View have small gardens and have only limited access to daylight and sunlight due to the configuration of extensions yet it is proposed to build a large two storey detached house only 8.6 to 9.3 metres away from the back windows of 1-3 Garden View with the effects of blocking winter sun from reaching ground floor windows, giving direct viewing of gardens at a distance of only 9 metres, the insertion of an extremely close substantial overbearing and dominant structure will completely fill the views to the rear of houses 1 and 2 Garden View.

- The attitude of the applicant under the appeal that the houses at Garden View are already deficient in amenity is not accepted and it is submitted that this is all the more reason to protect the amenity and not reduce it further.
- The proposed development of House B would contravene Zoning provision of Objective Z2.
- With regard to overshadowing it is submitted that the response to AI failed to provide the necessary detailed analysis, it submitted minimal simplistic data, failed to show shadow patterns, failed to submit any real information on the actual layouts of rear yards and buildings of No1 -5 Garden View.
- Had a proper 3 D sun shading analysis been submitted it would have demonstrated that shading effect on 1-5 would be very significant.
- The planning officer report notes unacceptable loss of sunlight at the rear of No 1 and No 2 Garden View.
- With regard to overlooking the observer has serious concerns about mutual overlooking and breach of privacy. The opposing dwellings are extremely close to each other at some 8.6 to 9.3 metres between opposing dwellings. Figure 2 of the letter of appeal demonstrates that there is a complete lack of privacy between the rear bedroom windows of No 1-3 Garden View and the rear garden windows of House B. The planning authority's concerns are referred to.
- With regard to dominance and overbearing effect House B would completely fill the view from the rear windows of No 1-2 Garden View and to a lesser extent No 3 at a distance of only 9.3 metres. This is reflected in the planners report.

Ann Farrell, No 2 Garden View

- Serious concerns are raised regarding the residential amenity of the observer's home due to overshadowing and loss of aspect with inadequate separation distances.
- The rear of the observer's site is adjacent to the site in question. The existing single storey light industrial unit on the site is built against the observer's boundary wall near the tiny patio.
- The observer's house was purchased in 2010 and considerable improvement works were carried out. A small rear two storey extension was built out to the boundary wall housing a kitchen and bathroom; French doors were installed to improve light downstairs. Also insulation works and refurbishing of original sash windows was carried out retaining the character of the house. The design was mindful of improving the amenity of the house, retaining its character and leaving some outdoor space to the rear to be enjoyed.
- The proposed House B is only 5.1 metres from the shared boundary wall and at 8.6 metres high it will overshadow the observer's home.
- There will be significant overshadowing and loss of sunlight particularly during winter months
- There is no reference made to the existence of the houses in Garden View and their proximity to House type B. Under Section 17.9.1.A1.2 of the development plan the need for natural lighting and sunlight is referred to.
- With regard to overlooking it is submitted that house type B is being squeezed in between the parking space of House Type D and the boundary wall and there will be considerable overlooking of the observers private space and windows.

- The size and scale of House Type B will be overbearing and domineering. It is two and a half times the width of the observer's property. It would be contrary to the zoning objective Z2 if permitted.
- It is considered that the proposed development of house type B would be overdevelopment of the site and it is referred that this area of the site was never previously used for housing. While the principle of housing on this overall site is welcomed it is submitted that four houses on this site is too many houses. It is suggested that the area in question of House Type B should be used for landscaped parking as there will inevitably be a second household car and visitor's cars. Parking is not available in the area and four large houses with only 4 parking spaces will add to traffic and parking problems in the area.

9.0 RESPONSE OF THE PLANNING AUTHORITY

8.1 No response submitted.

9.0 ASSESSMENT

Having inspected the site, considered the file documentation, the prevailing local and national policies, I consider that the key planning issues arising from the proposed development are:-

- Principle of the Development
- Design Issues
- Impact on Residential Amenities of adjacent properties;
- Other Issues
- Appropriate Assessment

9.1 Principle of Development

The proposed development comprises a residential development of four dwelling units of a mixed nature in addition to the demolition of a light industrial unit and the partial demolition and rebuild of an existing subdivided dwelling. The site is situated within an area affected by the 'Z2' land use zoning under which it is an objective 'to protect, provide and improve residential amenities of residential conservation areas'.

The planners report refers that until recently the site was under residential and commercial use with a hard standing area to the front of the site and a light industrial unit to the rear used for car sales and repairs, which is a non-conforming use, therefore the reversion of the site to a fully residential use is welcomed by the planning authority.

Given the policy cited under Section 17.9.7 of the plan referring to favourable consideration of infill development subject to compliance with residential standards and to the zoning of the site, I would consider that the general principle of the housing development is acceptable provided that such a development does not negatively impact on the residential amenities of the residential conservation area.

9.2 Design Issues - Layout/Plot Ratio/Private Open Space/Parking.

Overall Design/Layout

The proposed development of four dwellings on the subject site would in fact be appropriate if residential standards and residential amenity issues of adjacent properties were not compromised. The first party to the appeal makes a strong case that the site configuration is very challenging and that a high quality scheme based on an Avenue concept has been creatively designed with an emphasis on creating a 'sense of place' to address the specific location. The first party appellant considers that the loss of both house types B and D under conditions 3 and 4 in the absence of any guidance on what to do with this space and the associated loss of the 'Avenue' scheme has effectively 'butchered' the overall scheme. It is considered that the proposal meets with general policy of increasing densities in urban areas and the sites proximity to inner city should be borne in mind in addition to more relaxed standards as set out in the Draft Dublin City Development Plan.

With respect of the overall design scheme the first party appellant submits that the proposed shared space is built on sound urban design principles with the use of defensive space, shared surfaces, pinch points and good landscaping details, public lighting and integrated parking and pedestrian space. It is also submitted that most of the houses offer passive surveillance with a good mix of housing with shared materials that provides a coherent public/private realm design. Additionally all the finishes are of high quality that it is envisaged will improve with time. I concur with all of the above in respect of the actual scheme and its design element and from the perspective of design alone the use of best principles of crime principles through environmental design (CPED) in addition to the avenue concept and appropriate mix and aesthetically pleasing palette of proposed materials to be incorporated into the scheme. Accordingly, I consider the actual design to be very satisfactory.

However, the design alone and its sense of place, albeit an attractive proposal, does not unto itself over ride the necessity to provide for an appropriate standard of residential amenity for future occupants of the proposed dwellings or over-ride the necessity to preserve and enhance the residential amenity of adjacent properties specifically regarding the zoning designation of Z2 where it is an objective to protect and/or improve the amenities of residential conservation areas.

Plot Ratio

I note the submissions of the observers to the appeal and the references made to being agreeable and welcoming of the principle of a housing development on the appeal site but with objection to the development of House Type B in such close proximity to Garden View dwellings and perceived overdevelopment of the site as it is submitted residential housing was not ever established at this location previously.

With respect of plot ratio the proposed development would achieve a plot ratio of 0.61, which is agreeably at the lower end of the development plan standard, which recommends a ratio of between 0.5 and 2.0. Furthermore the reduced scheme as imposed under conditions of the decision of the planning authority would produce a plot ratio of 0.42, which is agreeably outside the lower end of the plot ratio recommended for the land in question. While I will revert to the issue of plot ratio later in this report I am of the viewpoint that while it is desirable to achieve required standards regarding plot ratio particularly in this urban context and with respect of requirements to meet sustainable city standards, I yet consider that residential amenity standards must also be achieved.

Residential Standards/Private Open Space

With respect of residential quality standards and private open space, the Planning Authority under its AI request sought information regarding House Type D, which it inferred did not meet the minimum required residential quality standards in terms of floor space and private open space and it also considered that House Types A and C had provided inadequate private open space provisions that did not meet development plan standards.

The response to item 2 of this AI request as summarised above addressed the internal floor area space with respect of house type D. It also proposed obscure glass on the first floor windows of House Type D, which it considered addressed issues of overlooking of the garden space to the north. While I concur that the introduction of obscure glass to the first floor windows to House Type D would address overlooking of the garden to the north, given the tight separation distance of 4.5 metres to the shared boundary, I would have concerns about the residential amenity standards of remaining habitable rooms and the residential amenity quality of future occupants of this house given this measure.

With respect of private open space standards house type A proposes 60 sq.m. where 90 sq.m. is required. House type D proposes 32 sq.m. where 45 sq.m. is required and House type Section C proposes 74 sq.m., where 120 sq.m. is required. House Type B proposes 61 sq. m. where 45 sq.m. is required if it is accepted that only 3 bed spaces are proposed under this house type. While three of the proposed dwellings fall shy of providing adequate private open space to the full standards of the development plan I note the first party appellants submission to the appeal that the design quality of shared public open space is of high quality and submission that the provisions of the Draft Dublin City Plan relax such private open space standards to 10 square metres in such proximity to the inner city area. Additionally, I note the provisions of the current Development Plan under 17.9.7 regarding Infill Housing that refers that *'in certain limited circumstances a planning authority may relax the normal planning standards'*. Having considered all of the above I am of the viewpoint that given the requirements to increase densities in such urban spaces, that in the current circumstances that it would be appropriate to relax the standards with respect of house types A and C, which are somewhat shy of minimum private open space standards and to accept the proposals for same as submitted under the AI response.

With respect of private open space, I note under Section A3 of the plan requirements for Private & Communal Open Space refer a standard of 15m² of private open space per bed space is required. Having considered the response regarding house type D I do not consider that the combination of not meeting the required minimum private open space standard in addition to poor residential amenity standard of obscure glazing to the first floor habitable spaces facing north for future occupants of House type D, to meet with best practice standards for residential amenity. While I note the submission of the first party appellant regarding the decision of the planning authority to omit house type D, which it is considered depletes the 'Avenue' impact, I yet agree with the planning authority's decision in this instance in the interest of residential amenity standards. I note the configuration of the overall site proved challenging from a design perspective however I consider that the space occupied by house type D could be occupied by an aesthetically pleasing landscaped and usable public open space, which would enhance the sense of place in the overall site context. Accordingly, I concur with the decision of the planning authority to omit House Type D and I consider that revised public open space layout/scheme for this space should be submitted to the planning authority for approval prior to the commencement of development.

Parking

Under the observations to the appeal it is referred that parking is a problematic issue in the area. I note that this may be a real concern however I also note the sites proximity to public transport corridors and alternative modes of transport in conjunction with the sites proximity to the City. The proposed development meets development plan requirements for parking and I note that the Roads and Traffic Planning Division Report on file has no objection in this regard.

9.3 Impact on Residential Amenities/Privacy/Daylight/Sunlight

Under the application and appeal submissions strong concerns are raised regarding the residential amenity of the adjacent houses to the North in Garden View, with particular concerns being raised by the owners of Nos 1 to 4 Garden View. Concerns are specifically with regard to loss of privacy and light/daylight to said properties and the overbearing impacts that House type B will have specifically with respect of its proximity to the shared boundary.

From the perspective of minimum separation distances the 22 metres between first floor windows rule, as interpreted as a general spatial separation rule is not achieved with regard to house Type B. While there are no first floor windows proposed on house type B at first floor level facing northwards towards Garden View, rather first floor windows are faced internally into the scheme with southerly aspect, the first floor windows of Garden View properties would conversely overlook the private open space attendant to House Type B. Therefore the privacy of future occupants of House Type B would be compromised somewhat, although I do appreciate that boundary screening/landscaping may contribute towards mitigating such impacts in the long term.

The overbearing and dominant impact of the proposed two storey structure in such close proximity to the party boundary positioned at 5.1 m. from same is of particular concern and this issue has been raised under the observations to the appeal. While generally the 22 metre opposing first floor window rule is generally regarded as being a standard to protect privacy it also provides a distance that respects a degree of spatial separation. I have concerns regarding the monolithic impact that the two storey blank elevation on the north side of House type B, standing at 6.7 metres to ridge level, would have at a position of only 5.1 metres from the party boundary. Such overbearing impacts would be particularly acute to Nos 1 and No 2 Garden View and to somewhat lesser although relevant to No 3 Garden View. I am of the viewpoint that given the restricted nature of the site and associated substandard separation distances, that a two storey dwelling unit at the location of House Type B is unacceptable as it would seriously detract from the residential amenity value of the adjacent properties. While the aim to achieve maximum sustainable use of such prime urban land is understood, I do not consider that it should be to the detriment of established residential amenity. The first party appellant raises issue with House Type B being removed from the scheme in the absence of any guidance on how to treat such space. I am of the viewpoint that a single storey 'city cottage' type residential unit may appropriately utilise this space and contribute to raising the plot ratio to the prescribed standard cognizant of the reduction in plot ratio that would be imposed by the direct omission of House Type B. In this event, full details including a comprehensive landscaping scheme, to protect the privacy/amenity of future occupants, would have to be agreed with the planning authority.

Under the observations to the appeal concern has been raised about the potential loss of daylight/sunlight to dwellings on Garden View with regard to the height and proximity of House

Type B to the adjacent dwellings. This concern is legitimate and was raised under Point 1 of the Planning Authority's request for Additional Information. The shadow impact analysis submitted to the planning authority on foot of this request indicates that there will be no impact on houses Nos 4 and 5 Garden View but that there would be sunlight impacts on Nos 1, 2 and 3, however such impacts would be confined to the darker winter months and would be for a limited period. The discrepancy highlighted by the planning authority with regard to ridge height reduction shown on the shadow impacts and those shown on the drawings has been rectified under the appeal submission as it has been clarified that the ridge height of House B would be reduced by 1.2 metres. The first party appellant considers that the proposed dwelling is unlikely to have an adverse impact on the daylight enjoyed by Nos 1 and 2 as the ridge height does not extend above the 25 deg projection. The first party appellant considers that as the gardens of Garden View properties impacted are substandard currently any additional impacts would be negligible. Accordingly, it is considered that the omission by the planning authority of house B was not an appropriate response when any alleged issue could be dealt with by way of condition.

Under the observations to the appeal the submission of the first party regarding the existing substandard nature of the Garden View properties, which somehow validates further adverse impacts, is refuted and it is submitted that the existing substandard nature of such garden spaces is more reason to protect the amenity that is currently enjoyed by such properties.

I am of the viewpoint that the shadow impact analysis in addition to the admission by the first party appellant that No 1 and No 2 Garden View will suffer loss of sunlight during winter months. Notwithstanding shadows currently cast by existing boundaries, I am of the viewpoint that any further encroachment of sunlight enjoyed by Nos 1 and 2 Garden View would conflict with the objective to protect and/or improve the amenities of residential conservation areas.

However, cognizant of my previous assessment with respect of the dominant and overbearing nature of proposed dwelling type B at this location and my recommendation to replace it with a low rise single storey dwelling unit, I consider that the proposal by the first party appellant to address the issue by way of condition, rather than by omission, is appropriate and will also address the loss of sunlight concerns.

9.4 Other Issues

The first party appellant suggests that pre-planning advice did not reflect the outcome of the planning application and it is eluded that a personnel change from the pre planning stage to the planning application stage may have influenced the outcome. With respect of pre-planning consultations I consider that notwithstanding the importance and documented benefits of pre-planning consultations, it remains that the carrying out of Section 247 consultations cannot prejudice the performance by a planning authority of any other of its functions under the Planning Act or under ancillary regulations.

9.5 Appropriate Assessment

Having regard to the nature and scale of the proposed development, the fully serviced suburban location, the nature of the receiving environment and proximity to the nearest European site, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

10.0 CONCLUSION AND RECOMMENDATION

I conclude that the permission for the proposed development (with the exception of permission for House type D), to be acceptable from the point of view of visual and residential amenity and the proper planning and sustainable development of the area for the reasons and considerations and subject to conditions as stipulated under Schedule A below,

And, I conclude and recommend that permission for the House Type D be refused for the reasons and considerations set out under Schedule B below.

In the light of the above Assessment, I recommend that as per:-

Schedule A, permission be **GRANTED** for the proposed development.

Schedule B, permission be **REFUSED** for proposed house type D and B.

(A) REASONS AND CONSIDERATIONS

Having regard to the Z2 Residential Conservation Area land use zoning objective for the area in the current 2011-2017 Dublin City Development Plan and having regard to the pattern of development in the area, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the 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. House type D shall be omitted from the proposed development and the area indicated as house type D shall be incorporated into a public open space, the details of which shall be agreed in writing with the planning authority prior to the commencement of the development.

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

3. The proposed two storey house type B shall be replaced with an appropriately scaled single storey dwelling, the details of which in plan and elevation form, shall be agreed in writing by the planning authority prior to the commencement of development.

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

4. Site development and building works shall be carried out only between the hours of 0800 hrs to 1800 hrs Monday to Fridays inclusive, between 0900 hrs 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.

5. The development shall comply with the following requirements:

a) During the construction phase, the proposed development shall comply with British Standard 5228 'Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control'

(b) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular the rated noise levels from the proposed development shall not constitute reasonable grounds for complaint as provided for in B.S. 4142 method for rating industrial noise affecting mixed residential and industrial areas.

Reason: In the interest of residential amenity.

6. 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.

7. Prior to commencement of development, a programme of works regarding the demolition of existing extensions, including an evaluation of any hazardous waste/materials in the buildings and outlining safety measures and a timescale, together with removal of debris, shall be submitted to and agreed in writing with the Planning Authority.

Reason: In the interest of residential amenity, safety and orderly development.

8. All site development works and services shall be carried out in accordance with the Department of the Environment Publication "Recommendations for Site Developments Works for Housing Areas".

Reason: In the interest of clarity and orderly development.

9. All services cables associated with the proposed development (such as electrical, communal television, telephone and street lighting cables and incorporating broadband provision) shall be run underground within the site.

Reason: In the interest of orderly development and visual amenities of the area.

10. Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

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

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

SCHEDULE B

REASONS AND CONSIDERATIONS

1. It is considered that the proposed development of house type B by reason of its dominance and mass in conjunction with its proximity to party boundaries, would be overbearing when viewed from properties at Garden View and would detract from the residential amenities of the adjoining properties. It would be visually dominant and would seriously injure the visual and residential amenities of said properties and therefore, would be contrary to the "Z2" zoning objective for this site, as set out in the Dublin City Development Plan 2011-2017 and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the substandard private open space provisions associated with House Type D, which do not comply with standards set out under Section 17.9.1 of the Development Plan, combined with reduced residential amenity quality of the property owing to the restricted site area, it is considered that the proposed development would seriously injure the residential amenities of future occupants of the proposed house and of properties in the area and would be contrary to the "Z2" zoning objective for this site, as set out in the Dublin City Development Plan 2011-2017 and would be contrary to the proper planning and sustainable development of the area

Aisling Dineen
Inspectorate
11th March 2016.