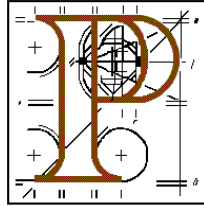


**An Bord Pleanála**



**Inspector's Report**

**Development:**

Permission for completion of Block A within an overall permitted development at Elmfield on Ballyogan Road, Dublin 18. Block E has been completed to date to second floor level in accordance with planning permission Ref. D03A/0411. The proposed development consists of (i) the completion of Block E, including fenestration and internal works to ground, first, and second floors, (ii) completion of the third floor and roof to accommodate 14 No. previously approved apartments, (iii) an increase in balcony sizes, (iv) provision of external storage to the apartments, and (v) all site development works and open space in accordance with the original permission.

Planning Application

Planning Authority: Dun Laoghaire Rathdown County Council

Planning Authority Register Reference: D15A/ 0618

Type of Application: Permission

Applicant: Dwyer Nolan Developments Ltd.

Planning Authority Decision: Grant permission

Planning Appeal

Appellants: Dwyer Nolan Developments Ltd.

Type of Appeal: First Party against condition.

Observer(s): None

**Inspector:** Emer Doyle

**Date of Site Inspection:** 12<sup>th</sup> May 2016

## **SITE LOCATION AND DESCRIPTION**

The subject site has a stated area of 0.185 hectares and forms part of a larger residential development of Elmfield on the Ballyogan Road, Dublin 18. The site is located opposite 'The Gallops' Luas station on the Ballyogan Road.

Elmfield consists of 5 apartment blocks. Blocks A - D are fully completed and are rented out by a management company. Block E is under construction at present with substantial works to at ground, first and second floor levels. The site appears to be finished to a high standard with the landscaping completed and well maintained. The vast majority of the parking is underground.

A set of photographs of the site and its environs taken during the course of the site inspection is attached.

## **PROPOSED DEVELOPMENT**

Permission is sought for development comprising the following:

- Completion of Block E including fenestration and internal works to ground, first and second floor level.
- Completion of third floor and roof to accommodate 14 No. previously permitted apartments.
- An increase in balcony sizes.
- Provision of external storage to all apartments.

## **PLANNING HISTORY**

Relevant planning history includes the following:

### **PA Reg. Ref. D03A/0411**

Permission granted for 207 No. apartments in 5 blocks as follows:

Block A 41 apartments

Block B 32 apartments

Block C 28 apartments

Block D 52 apartments

Block E 54 apartments

The permission expired in 2009 prior to the completion of the entire development.

### **D07A/0113/ PL06D.222910**

Permission refused by Dun Laoghaire Rathdown County Council and by the Board on appeal for the construction of a penthouse level over 2 No. permitted 4 storey apartment blocks (Blocks A and B). The proposed development included the provision of an additional 6 No. 2 bedroom apartments at penthouse level and 2 No. 2 storey 2 bed apartments at third floor and penthouse level in Block A and 5 No. 2 bed apartments and 1 No. 3 bed apartment in Block B.

### **PLANNING AUTHORITY REPORTS**

#### **Planning Report:**

The planning report noted that one observation was made from TII in relation to the incorporation of a link road from Road 1 through to Castle Lawns. In the first report, the planner considered that the notices were misleading and the development did not comply with development plan and DoEHLG standards. The second report dated the 8<sup>th</sup> of February 2016 stated that although the 14 units proposed meet the minimum floor size and balcony size, they do not all comply with the storage and dual aspect requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, December 2015.

#### **Drainage Department**

No objection subject to conditions.

## **Transportation Department**

Although the applicant states that development on site has been carried out in accordance with permitted planning permission reg. ref. D03/0411, full compliance with Condition No. 2 regarding the loop road distributor remains outstanding.

There is potential for permeability connections for pedestrians and cyclists with adjoining developments. There is potential for a future permeability connection with Road 1 adjacent or through a parking space to connect with Kilgobbin Woods (Castle Lawns).

No objection subject to conditions.

## **Housing Department**

A Part V agreement is in place for the entire development and the developer has no further obligations under Part V.

## **Building Control**

No objection subject to conditions.

## **PLANNING AUTHORITY DECISION**

The planning authority granted permission for subject to 14 conditions.

Condition No.2 is as follows:

The third floor proposed of Block E shall be omitted in its entirety as the apartments do not meet the Specific Planning Policy requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, December, 2015. Prior to commencement of works on site, revised drawings and details shall be submitted for the written agreement of the Planning Authority indicating the third floor of Block E omitted or in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** In the interests of the proper planning and sustainable development of the area.

## **GROUNDS OF APPEAL**

The following is a summary of the main issues raised in the appeal submitted on behalf of the **first party Dwyer Nolan Developments Ltd.**

- Appeal against Condition No. 2 only.
- The planning authority failed to understand that the completion of Block E was not a de nova application, rather it simply sought permission to complete an otherwise unfinished building which evidently requires completion.
- Modifications to the internal layout are virtually impossible due to its structural integrity as built.
- The planner's report only assessed storage provision in terms of internal storage and did not consider the storage that is provided for on balconies.
- Additional storage for bulky items can be provided for in the basement if necessary.
- Of the 14 No. apartments, No. 44, No. 45, No. 51, No. 43 are dual aspect and if the stairwell adjacent to unit 51 is modified, then unit 51 can be classed as a dual aspect unit. *(I think the reference to No. 51 is inadvertent and the reference should be to No. 52)*
- North facing units overlook the central open space area of Elmfield.
- We request that An Bord Pleanála issue an order omitting Condition No. 2 from the decision to grant permission.

## **RESPONSE SUBMISSIONS**

### **PLANNING AUTHORITY RESPONSE TO GROUNDS OF APPEAL**

The response notes that the apartments proposed do not meet the Sustainable Urban Housing: Design Standards for new apartments, Guidelines for Planning Authorities 2015.

## **OBSERVATIONS**

None.

## **POLICY CONTEXT**

### **Development Plan – Dun Laoghaire Rathdown Development Plan 2016-2022**

The appeal site is within the area covered by the Dun Laoghaire-Rathdown County Development Plan, 2016- 2022, and has a zoning objective 'A' –'To protect and/or improve residential amenity.'

Policy RES 3 promotes higher densities with as a general rule a minimum default density of 35 units per hectare.

Policy RES 4 encourages the densification of existing built up areas.

Policy RES 7 encourages the establishment of sustainable residential communities by ensuring a wide variety of housing and apartment types.

Section 8.2.3 deals with Residential Development.

### **DoEHLG (2015) Sustainable Urban Housing- Design Standards for New Apartments Guidelines.**

## **ASSESSMENT**

Further to my examination of the planning file and the grounds of appeal that relate to one condition only i.e. Condition No. 2 of the notification of decision of the planning authority to grant permission, and having assessed the documentation and submissions on file, I consider it is appropriate that the appeal should be confined to this single condition. Accordingly I am satisfied that the determination by the Board of this application as if it had made to it in the first instance would not be warranted and that it would be appropriate to use the provisions of Section 139 of the 2000 Act in this case.

Condition No. 2 requires that the third floor consisting of Block E is omitted as the apartments do not meet the requirements of the Sustainable Urban Housing Guidelines for Planning Authorities, 2015. The stated reason is in the interests of the proper planning and development of the area.

The apartments meet the guidelines in terms of minimum floor areas. They do not meet the guidelines in terms of dual aspect and internal storage areas. The requirements set out for storage areas is 3m<sup>2</sup> for one bedroom, 6m<sup>2</sup> for two bedroom, and 9m<sup>2</sup> for three bedroom apartments. The internal storage spaces provided in the third floor of Block E are 3.5m<sup>2</sup> for two bedroom and 7m<sup>2</sup> for three bedroom apartments. In order to make up the shortfall the applicant has also provided 2.5m<sup>2</sup> of external storage in the balconies of the two and three bedroom apartments. All balcony sizes meet the guidelines taking this external storage into account. The one bedroom apartments- Nos. 46, 47, 49, and 53 cannot provide additional space in the balconies and fall short in the storage requirement. I consider that it is reasonable to allow for the external storage to be taken into account. I note that due to the existing layout of the block, it was not possible to make alterations internally due to the structural integrity as built. However, it was possible to increase the width/ depth of the balconies by 0.5m so that additional storage space could be provided for, catering for items such as bulky storage.

Section 3.11 of the guidelines require that the minimum number of dual aspect apartments that can be provided in certain circumstances subject to high quality design and the location of the site should be an absolute minimum of 33%. Of the 14 No. apartments, only 1 is dual aspect – No. 44. The guidelines state that dual aspect sites can include corner sites and the developer makes the argument that Nos. 45, 51 and 43 are dual aspect. I am of the view that these would be very poor quality dual aspect apartments as they have not been specifically designed to benefit from their corner site location in terms of lighting or design.

I consider that the guidelines are intended to apply to new housing developments. It is put forward in the appeal that judicious, pragmatic consideration needs to be paid to the fact that the current condition of Block E is a legacy issue left over from the economic downturn that occurred in recent years. This application was granted originally in 2003 and the ground floor, first and second floors are built but not fitted out or finished. Blocks A, B, C, and D are fully completed and owned by a management company and are 100% rented. The blocks as built and rented and the part of this Block built but not fitted out are similar to what is proposed at this location. There is a slightly improved quality with the current third floor in terms of the provision of additional storage areas internally and externally. The site is very well served by public transport and is opposite the Luas line. In terms of practicalities, modifications to the internal layouts would be extremely difficult. I am of the view that the developer has attempted to comply with the new requirements taking the constraints of the building into account and having regard to the amount of building already



constructed, it would not be possible to alter the design at this stage in order to fully comply with the guidelines.

Having regard to the context and background to the site as set out in detail in the appeal documentation, I am satisfied that the development is to a high standard and substantially complies with the guidelines in so far as is practicable. Accordingly, it is recommended that Condition 2 be removed.

### **13.0 CONCLUSION & RECOMMENDATION**

- 13.1 Having regard to the nature of the condition the subject of the appeal and based on the reasons and considerations set out below, I am satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and recommend that the said Council be directed under subsection (1) of section 139 of the Planning and Development Act, 2000 to **REMOVE** Condition Number 2 so that it shall be as follows for the reason and considerations set out:

### **14.0 REASONS AND CONSIDERATIONS**

Having regard to the zoning objective for the area as set out in the Dun Laoghaire Rathdown Development Plan 2016- 2022, the established pattern of development in the area, the location of the site adjacent to the Luas line, the nature, scale and design of the proposed development, and the amendments to the original layout to address the storage requirements of the 'Sustainable Urban Housing: Design Standards for New Apartments' Guidelines for Planning Authorities' DoECLG, 2015 it is considered that, Condition Number 2 is not necessary in the interests of the proper planning and sustainable development of the area.

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Emer Doyle

Inspector

26<sup>th</sup> May 2016

