



An
Bord
Pleanála

Inspector's Report PL06D.247290

Development	Amendments to a previously granted planning application reference numbers D08A/0574 and D08A/0213, consisting of the removal of a pedestrian access from the development to Overend Way.
Location	Pirton, Sydenham Villas, Dundrum, Dublin 14
Planning Authority	Dun Laoghaire Rathdown County Council.
Planning Authority Reg. Ref.	D16A/0175.
Applicant(s)	Jammel Pirton Limited
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Yseult Freeney and Donal O'Connell
Observer(s)	1. Taney Parish Primary School 2. Certain Residents of Sydenham Villas
Date of Site Inspection	17.12.2016
Inspector	Fiona Fair.

1.0 Site Location and Description

- 1.1. The triangular site, with an area of 0.2ha, is located at the end of a cul de sac, Sydenham Villas. The cul de sac terminates in an apex created by the intersection of Sandyford line (LUAS) to the west, and the Dundrum town bypass, Overend Way, to the east.
- 1.2. The site currently accommodates 4 no. detached dwellings constructed along its western side. The vehicular entrance to the site is via Sydenham Villas to the north western side of the application site.
- 1.3. A c. 2.0 m stone wall forms the eastern boundary to Overend Way, which is at a slightly higher level than the appeal site itself. The pedestrian gate to which this planning application relates was permitted in the eastern boundary wall.
- 1.4. A school and large turning area are located to the north of the site with associated car parking adjoining the street boundary.
- 1.5. The site is located approximately 150m from the Dundrum Town Centre. 'Rockfield', including multi-storey apartments with basement park and ride for the Ballally LUAS stop, is situated opposite the site to the east.
- 1.6. Photographs attached to this report describe the site and location.

2.0 Proposed Development

- Permission is sought for an amendment to previously granted planning application reference numbers D08A/0574 & D09A/0213 (together with An Bord Pleanála Reference Number: PL 06D.233962).
- The amendment shall consist of the removal of a pedestrian access (not yet constructed) from the development to Overend Way as part of the above mentioned application reference numbers.
- It is noted that part of the site, particularly, the section which was to accommodate the permitted pedestrian access, is within the ownership of the planning authority. A letter of consent from DLRDCC is attached to the file.

3.0 Planning Authority Decision

3.1. Decision

Subsequent to Additional Information being requested with respect to justification for removal of a pedestrian link / permitted pedestrian entrance, planning permission was Granted, subject to three number conditions.

Condition 1 Standard condition

Condition 2 requires that save for amendments granted on foot of this permission, the development shall otherwise be retained and completed in strict accordance with the terms and conditions of Planning Permission Reg. Ref. D08A/0574 and D09A/0213, PL 06D.233962, save as may be required by the other conditions attached thereto.

Condition 3 requires that all outstanding financial contributions are to be paid on foot of Planning Permission Register References D08A/0574 and D09A/0213, PL06D.233962

3.2. Planning Authority Reports

3.2.1. Planning Report: The planning report supports the draft decision to Grant planning permission. It notes the comments of the transportation Department, however, it states: 'the concerns of the residents of Pirton, which is a private development not to be taken in charge or intended to be taken in charge and the concerns of the residents of Sydenham Villas, and the Board of Management of Taney Primary School also need to be considered'.

3.2.2. Other Technical Reports

- Drainage Planning Report: No objection
- Transportation Planning Report: Objection raised to the removal of the pedestrian access.

3.3. **Third Party Observations**

Observations received. Both concerns raised and support for the proposal are similar in nature to those raised in the third party appeal and observations on file, summarised below.

4.0 **Planning History**

There is a long and protracted planning history associated with this site.

- 4.1. Reg. Ref. D14A/0871 Planning Permission **Granted** for Retention and completion and to remove 2 number basements from house number 1 and 2 (of planning reference number D08A/0574 - revised under D09A/0213 currently under construction), increase the ground floor area of house number 1 and 2 and minor alterations to the site layout.
- 4.2. Reg. Ref. D09A/0278 / PL06D.234227 Planning Permission **Refused** (Feb 2010) for construction of 7 no. terraced townhouses in a detached terrace consisting of 1 no. two-storey over basement two-bedroom house, 2 no. three-storey over basement four-bedroom houses with balconies to the front and rear, 2 no. four-storey over basement four-bedroom houses with balconies to the front and rear and 2 no. four-storey over basement four-bedroom houses, provision of 14 car parking spaces and 7 bicycle spaces, on site adjacent to an architectural conservation area, to south of existing Pirton House, vehicular access via Sydenham Villas to entrance court, pedestrian access to Overand Way, associated site works and boundary treatment.

Modification to the Parent Permission

- 4.3. Reg. Ref. D09A/0213 / PL06D.233962 Permission Refused by the p.a. and **Granted** on Appeal by ABP (Feb 2010) for amendment to previously granted permission for three houses (Ref. No D08A/0574) to include one additional two-storey over basement plus attic storey four-bedroom detached house and two additional car parking spaces on site adjacent to an architectural conservation area, to south of existing Pirton House, vehicular access via Sydenham Villas to entrance court, pedestrian access to Overend Way and alterations to approved plans of house no.3.

Condition 3. Is of relevance to the subject appeal case. It states:

‘The proposed development shall be amended as follows:

(a) The sliding gate at the site entrance from Sydenham Villas and the gates to the pedestrian steps from Overend Way shall be omitted and the boundary treatment adjoining the steps shall provide for clear visibility into the access link to Sydenham Villas and passive surveillance.

(b) The area to the front of the houses, including the parking space and surrounding area, shall consist of permeable landscaped surface and semi-mature trees with lateral branches commencing at a minimum 1.7 metres in height, along the boundary with Overend Way.

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

Parent Permission

- 4.4. Reg. Ref. D08A/0574 Permission **Granted** (Nov 2008) for construction of three No. detached houses on foot of response to Further information. Permission was originally sought for 4 No. detached dwellings on site with are area of 0.27 ha.
- 4.5. Reg. Ref. D07A/1457 Planning Permission **Refused** (December 2007) for Construction of 8 terraced townhouses, vehicular access via Sydenham Villas to entrance court with 16 car parking spaces and 7 cycle spaces, Pedestrian access to Overend Way and associated site works and boundary treatment
- 4.6. Reg. Ref. D07A/0519 Planning Permission **Refused** (June 2007) for the construction of 24 apartments. Vehicular access via Sydenham Villas to entrance court with 22 car parking spaces and 24 cycle spaces. Pedestrian access to Overend Way. Balconies on southwest side. Access deck to northeast and roof terraces to northwest on building. 3-storey side facing Sydenham Villas and 6-storey side facing Overend Way. Also with boundary to Overend Way
- 4.7. Reg. Ref. D03A/0286: Permission Refused by the p.a. (May 2003) But **Granted** by ABP PL06D.203276 (October 2003) for alterations to approved plans (Reg. Ref. D02A/0923) of 3 storey, 12 apartment building to include 2 penthouse apartments on roof and associated sitework.

- 4.8. Reg. Ref. D02A/0923 Permission **Granted** (31st Oct 2002) for three storey building comprising 3 one bedroomed apartments and 9 two bedroomed apartments and associated site works. Permission not carried out.

5.0 Policy Context

5.1. Development Plan

The operative plan for the area is the Dún Laoghaire-Rathdown County Council Development Plan 2016 - 2022. The site is located in an area where the land use zoning objective is 'A' – to protect and/or improve residential amenity'

The following Sections of the County Development Plan, attached as appendices to this report, are of relevance:

Section 2.2.7.2 refers to Policy ST6: Footways and Pedestrian Routes

Section 8.1.1.1 refers to Policy UD1: Urban Design Principles

Paragraph (i) of Section 8.1.1.1 Permeability

6.0 Grounds of Appeal

6.1. The grounds of the Third Party Appeal can be summarised as follows:

Justification

- No justification for the proposed works
- The proposal constitutes a significant change to the terms of the planning approval in place.
- The Pirton Development was marketed and sold on the basis that there was a pedestrian link to the Luas Stop at Balally via Overend Way
- The residents of Pirton were not included in the consultation with external parties.

- Contrary to the assertions by Jammel the residents of Pirton (and other residents) would benefit from the approved pedestrian access which was a significant factor in the purchase of a house in the estate.

Views of the Transportation Department

- The transportation Department of DLRDCC object to the removal of the approved pedestrian access
- Contrary to policy to promote and implement, through development management pedestrian permeability and linkages to adjacent neighbourhoods

View of Taney Primary School

- Correspondence from the school shows that their concerns arose as a result of the condition imposed by ABP (PL06D.233962) that the gate to the pedestrian access be omitted (though the decision does require that the boundary treatment adjoining the steps should provide for clear visibility into the access link to Sydenham Villas and passive surveillance).
- ABP decided that the intended gates to the development be omitted as well as the gates to the pedestrian access.
- The school do not have any concerns were the access to be gated and controlled.
- No strong views as to whether the pedestrian access should be gated or not and believe that the schools concerns can be addressed in either case.
- The school's concerns could be met by erecting a kerb side barrier opposite the pedestrian access and possibly having a double barrier on the internal approach to the access thus slowing down children on their approach to the access and preventing them from running onto the road (Overend Way).
- There is a pedestrian controlled crossing close to the access point and Balally Luas Stop.
- Consideration could be given to having a traffic warden in place at the relevant times.
- No objection to the pedestrian access being gated if this is regarded as necessary to meet the needs of the school.

- The pedestrian access would serve / benefit parents of children attending the school, who currently have to take the long way around and could be controlled by way of an authorised key holder or by way of a key pad system.
- Incentive for parents to walk to school
- Reduce the level of traffic along Sydenham Villas
- The traffic situation at the school is currently under investigation in terms of emergency access, health and safety, traffic congestion and illegal parking

Substantial number of Residents and Students Entering and Exiting the Access

- There are less than a dozen houses on Sydenham Villas and Pirton only four
- Residents of Sydenham Villas and Pirton would enjoy the benefit of easy access to the LUAS, saving them a lengthy journey along the Sydenham Villas / Upper Kilmacud Road / Overend Way route which they are otherwise forced to undertake in order to reach the Balally Station
- In the event that the access is gated the residents of Sydenham Villas could be given the right to use the access.

Benefits to the Residents and the School

- There was always a right of way from / into Sydenham Villas in the form of a stile dating from the 1840's, giving access to Airfield Estate.
- This stile continued to be in use following the relocation of the school
- The stile was publically accessible
- It was only with the construction of Overend Way and the building of the perimeter wall that the right of way 'disappeared'
- The pedestrian access would alleviate traffic problems at the school
- The Riversdale apartment complex, which is even closer to the Luas Station at Balally has a gated pedestrian access onto Overend Way and thus to the Luas Station.

Unwanted Gatherings of Individuals Away from the Public Eye

- No evidence to support allegations of anti-social behaviour
- The location is well overlooked

Urban Design Principles.

- There is clear benefit to the residents of the Pirton development in having a pedestrian access to the Luas station

Substantial level Changes

- Why level changes are now raised as obstacles to the construction of the steps is unclear
- No justification is given for this assertion of issues with level changes
- It is difficult to understand why the level change should pose an issues, esp. give precedent examples in the area.

Structure Disproportionate in this Location

- Pedestrian access formed part of the parent planning permission and was integral to the planning approval by the p.a. and ABP
- Significant feature of the marketing of the development
- Incomprehensible that only now they consider the structure to be disproportionate

Appeal Accompanied with:

- Extract from Marketing Brochure for Pirton Development from Jimmel Pirton Ltd
- Letter of Objection to the p.a.
- Letter of receipt of submission
- Notification of Decision to grant planning permission Reg. Ref. D16A/0175

6.2. Applicant's Response

- 6.2.1. A First party response has been submitted by Kieran O'Malley & Co. Ltd on behalf of Jammel Pirton Limited, it is summarised as follows:

Response To Grounds of Appeal

- This was and still is a wholly private development

- It is appropriate to control access to it.
- The controlled access arrangement is the same as that approved by condition 5 in an earlier permission Reg. Ref. D02A/0923, for 12 no. apts in a three storey building.
- Condition 3 of PL06D.233962 which proposed an amendment to the parent permission fundamentally altered the nature of the vehicular and pedestrian access into this private development by removing the gates and allowing uncontrolled access through a private scheme.
- There was communication with all owners at Pirton regarding the proposal to omit the pedestrian access
- The applicant offered to submit an application for pedestrian access at Overend Way to the appellant's property, 4 Pirton and to construct it in the event planning permission was forthcoming.

Views of DLR Transportation Department

- The planning officer considered in full the transportation report and rejected it having regard to policies ST6 and UD1
- It has been accepted by the planning authority that there is clear justification for the removal of the access
- Reiterate the views of (planning design solutions) p.d.s. in their further information response in that the material benefits to security, residential amenity and privacy at Pirton
- Omission of the access does not prohibit residents from easily accessing the Luas on foot, less than 10 minutes' walk / 800m away.
- The views and concern of Taney Primary School are reiterated
- There have been submissions from the BOM and from residents of Sydenham Villas in support of the proposed development.
- Concern of anti-social behaviour
- The access doesn't cater for mobility impaired persons, concern the access doesn't comply with Building Regulation Standards.

Revised Access Arrangement Proposed

- Strictly without prejudice to the applicant's position, the First Party is willing to accept a condition that requires the construction of a pedestrian access at Overend Way solely to serve 4 Pirton, i.e. the appellants property.
- Suggested wording of a condition: 'A revised pedestrian entrance shall be provided at Overend Way that only serves 4, Pirton. Prior to the commencement of development, the applicant shall submit revised drawings to the planning authority for its written agreement. The applicant shall include evidence of agreement with the residents of 4 Pirton, in its compliance submission.'

6.3. Planning Authority Response

6.3.1. Two responses received summarised as follows:

- The Board is referred to the previous planner's report.
- Considered that the grounds of appeal do not raise any new matter which, in the opinion of the p.a. would justify a change of attitude to the proposed development.
- The submission by Kieran O'Malley and Co Ltd dated 19th October and the subsequent suggested condition in relation to the pedestrian entrance to serve No. 4 is noted, however this condition would relate directly to a private residence and would result in a conditioned alteration to a private residence which would be outside of the remit of this current application and would require the consent of the owner of that property.
- It is not considered appropriate to require this alteration by condition.
- An option where a pedestrian gate which the 4 dwellings in Pirton would have sole access to onto Overend Way via a key or code, as was originally indicated in the parent permission, would be considered to be a more suitable and sustainable option, however it is submitted that this would be outside of the remit of the planning application as in the interest of fairness and transparency, it would require consultation with all of the property owners in Pirton

- It is not clear if a gate for the use of the residents of Pirton only would still require to be universally accessible and therefore could be constructed successfully on site
- The p.a. is mindful that this would partially contravene a condition by the Board under PL06D.233962

6.4. **Third Party Response to First Party Response**

6.4.1. A response to the first party response was received from Donal O’Connell and Yseult Freeney, it is summarised as follows:

- Marketing of the Pirton Development included the pedestrian access,
- Queries the wholly private nature of the Pirton Development,
- Highlights concern for safety of people climbing over the wall to achieve a short-cut
- There was no prior communication with the residents of Pirton with the exception of No. 1 Pirton,
- The possibility of a private pedestrian access for the exclusive use of no. 4 Pirton would require planning permission as per Art 9 (i) (a) (ii) this has been confirmed by DRDCC planning department,
- It is not the case that all the residents are in favour of the pedestrian access being omitted,
- The pedestrian access would provide easy of access for those less fit, with buggies or smaller children.
- It is submitted that having further consulted with DLRDCC that Jammel may provide a private pedestrian access for the exclusive use of the residents of no. 4 Pirton, without further planning approval.
- Propose some minor amendments to the wording suggested by KOM as follows:
 - ‘A revised pedestrian entrance shall be provided at Overend Way that serves No. 4 Pirton exclusively. The Board notes that Jammel will be responsible, in consultation with the appellant, (the residents of No. 4 Pirton) for the construction and completion of the private pedestrian access within a period

of two months from the date of this decision to the satisfaction of the appellant. Jammel shall include evidence of agreement with the appellant in its compliance submission’.

6.5. Observations

6.5.1. Two observations were received from Taney Parish Primary School; summarised as follows:

- The Board of Management is concerned about the safety of young school children (aged four – twelve) having unrestricted access to Overend Way from Sydenham Villas (via the permitted pedestrian access point at the Pirton Development)
- Overend way is effectively a bypass, is heavily trafficked and does not have places for parents to park to drop off school children
- Concern with respect to increase in anti-social behaviour
- Unwelcome opportunity and temptation for children to cross Overend Way
- Risk of traffic accidents in that unescorted school children might be tempted to run across Overend Way to use the pedestrian access point because it might be faster to get to school or because they want to visit and play by the urban farm at Airfield
- Concern of queuing of school traffic on Overend Way
- The pedestrian crossing on Overend way is too far from the proposed entrance (and also around a corner) to provide the necessary safe crossing for children.
- Since the school moved to Sydenham Villas in Nov 1970 there has been only one access point to the school via Sydenham Villas
- Removal of the pedestrian access will not increase the amount of traffic currently dropping off and picking up along Sydenham Villas

- A constant flow of pedestrian traffic along the road destined for the Luas or Dundrum Town Centre could present a threat to security of the school and safety of the children attending the school.
- Information from Gardai indicates that some alleyways in the Dundrum area are being considered for closing off due to antisocial behaviour
- The BOM was always of the understanding that the exit from the new Pirton Development was to be on a secure and controlled basis
- The risk to the safety of children and the potential increase in traffic hazard outweighs the design benefits of introducing an uncontrolled access point to Pirton and by extension to Sydenham Villas from Overend Way
- The safety of some 450 young school children must be considered.
- Should a revised pedestrian entrance (as suggested in the submission of 19th October) be provided at Overend Way that only serves number 4 Pirton the BOM would have the following concerns:
 - What assurances would be given that the new entrance would be kept locked at all times.
 - What recourse would the BOM have if the entrance was left open on a continual basis.
 - The BOM would wish to ensure that the entrance should not be located adjacent to the boundary of the school grounds.
 - Would like to see further information on the precise location and security of any such entrance before it is constructed.

6.6. Two observations were received from Conor Sheehan Planning Consultant on behalf of Certain Residents of Sydenham Villas. Summarised as follows:

Views of the Taney Primary School and the Residents

- The residents have no objection in principle to gated access being provided to Pirton from Overend Way but believe that the removal of the permitted pedestrian

access to Overend Way represents the best outcome for the residents of Sydenham Villas

- Use of the gate would be difficult to police and enforce, particularly, where the appellant is suggesting that keycards for the gate could be given to parents of children attending the school.
- Traffic Hazard
- Creation of parking congestion on Overend Way
- One of the residents would support the imposition of a condition which limits access via the proposed pedestrian link to future residents of the proposed development and occupants of Sydenham Villas, in line with wording of condition 5 attached to Reg. Ref. D02A/0923 / PL06D.203276

Status of An Bord Pleanála's Condition

- Under D08A/0574 a condition was imposed that the development be retained in private ownership and therefore it was not designed to be a through route for the general public
- Neither the residents nor the BOM of Taney Primary School made a submission in respect of PL06D.233962 as the applicant had not proposed to remove the gate from the proposed permitted access
- There is a material difference between the appeal that was under consideration by the Board PL06D.233962 and the subject application D16A/0175
- The p.a. are not bound by ABP's previous decision PL06D.233962
- The Board required the removal of the gate to the pedestrian access point in the interest of Visual Amenity as set out in the Reason attached to Condition 3
- The safety and security risks posed by uncontrolled access to the children attending Taney Primary School outweigh concerns in relation to visual amenity

Precedent for a Public Access

- The residents disagree that there was a right of way precedent
- If there was a stile or right of way this has been extinguished / abandoned
- No right of way through Pirton development – Airfield Estate was a private farm.

- Balally Luas Stop will still be accessible from Pirton by a short walk up from Sydenham Villas

Anti-Social Behaviour

- Concern that an uncontrolled access would open the area up to those who have no business in the Villas
- Transform Sydenham Villas into a parking area for commuters
- Result in strangers walking through the communal open space and access road of the private Pirton development

Views of DLR Transportation Department

- While the transportation department report objected to the proposal it did not expressly recommend refusal of the planning application.

Observation accompanied with:

- Original submission and letters of support to p.a. in respect of removal of the permitted pedestrian entrance.
- Traffic count and Photographs of Overend Way
- Subsequent response by certain residents of Sydenham Villas, to the applicants response to the third party appeal submits that Residents agree with the submission made on behalf of the Applicant and request that the Board up hold the decision of the planning authority.

7.0 Assessment

I consider the key issues in determining this appeal are as follows:

- **Planning History**
- **Principle of The Pedestrian Access**
- **Appropriate Assessment**

7.1. Planning History

There is a long and protracted planning history pertaining to the subject appeal site, see section 4.0 of this report above for full details. Under the parent planning permission for works constructed on the site, Reg. Ref. D08A/0574, planning permission was granted, in 2008, for construction of three number detached houses with a sliding gate at the entrance from Sydenham Villas and a gate to the pedestrian access onto Overend Way opposite the Rockfield Development.

This permission was subsequently modified on foot of Reg. Ref. D09A/0213 / PL06D.233962 to include one additional two-storey four-bedroom detached house and two additional car parking spaces. While Reg. Ref. D09A/0213 / PL06D.233962 was refused a draft planning permission by DLRDCC, the proposal was granted on appeal, by ABP in February 2010, subject to 12 number Conditions. Condition 3 is of direct relevance to the subject appeal case. It states:

‘The proposed development shall be amended as follows:

(a) The sliding gate at the site entrance from Sydenham Villas and the gates to the pedestrian steps from Overend Way shall be omitted and the boundary treatment adjoining the steps shall provide for clear visibility into the access link to Sydenham Villas and passive surveillance.

(b) The area to the front of the houses, including the parking space and surrounding area, shall consist of permeable landscaped surface and semi-mature trees with lateral branches commencing at a minimum 1.7 metres in height, along the boundary with Overend Way.

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

Reason: In the interest of visual amenity'.

7.2. Principle of The Pedestrian Access

In the subject case the planning authority have granted a draft planning permission for omission of the pedestrian access (not yet constructed). While the objection by the transportation department is noted, it is the opinion of the planning authority that the concerns of residents of Pirton, which is a private development not to be taken in charge or intended to be taken in charge, and the concerns of the residents of Sydenham Villas, and the Board of Management (BOM) of Taney Primary School also need to be considered.

The planning authority had regard to the parent application Reg. Ref. D08A/0574, which was not appealed to ABP, on foot of which a condition was attached which states:

'The proposed communal open spaces, grouped car parking areas, all external elevations and access roads within the site shall be retained in private ownership and maintained by a properly constituted Management Company. Membership of this Company shall be compulsory for all purchasers of property on the development. Confirmation that this Company has been set up shall be submitted to the Planning Authority prior to the occupation of the first residential unit.

REASON: To ensure a proper standard of residential development and maintenance of communal facilities'.

It is the opinion of the planning authority that this pedestrian entrance was not designed as a public thoroughfare / right of way and while it would provide connectivity to Balally Luas, concerns relating to safety, anti-social behaviour and

uncontrolled access by the public to a conditioned private development are uppermost. It was further considered that the entrance would result in a pedestrian entrance which would most likely require steps due to level difference between the site of Pirton and the public footpath along Overend Way and would not be fully accessible.

First party concern is raised that the construction of the permitted, uncontrolled pedestrian access point from Pirton to Overend Way would be contrary to the Development Plan's stated zoning objective for Sydenham Villas and Pirton (Land Use Zoning Objective A) in that it would diminish rather than protect and or improve residential amenities, that it could give rise to a traffic hazard, specifically endangering school children and could facilitate anti-social behaviour.

The BOM of Taney Primary School have also raised concern with respect to traffic hazard linked to school children safety and contend that the most favourable outcome would be to omit an uncontrolled pedestrian access.

As above-mentioned the transportation planning section of DLRDCC have objected to the removal of a pedestrian access. The report states that: 'it is council policy to promote and implement through development management pedestrian permeability and linkages to adjacent neighbourhoods and facilities, incl. public transport nodes as per Section 2.2.7.2 – Policy ST6: Footways and Pedestrian Route', Section 8.1.1.1 – Policy UD01: Urban Design Principles and Section 8.2.3.1 – Quality Residential Design of the current County Development Plan 2016 – 2022'.

It is clear from submissions on the file that the pedestrian access point from Overend Way via Pirton to Sydenham Villas is causing some local residents and the local Primary School concern. I note the proposals put forward that the pedestrian access be restricted by way of key or code to serve residents of Pirton, parents walking children to school, or moved to provide private access to No. 4 Pirton, (appellant) only. However, I am of the opinion that it would not be appropriate to require such

alteration to a permitted link, by way of condition and also that any such condition, restricting access, would contravene Condition 3(a) attached to PL06D.233962.

I agree with the opinion of the Inspector in the assessment of PL06D.233962 that a gated development would be contrary to national policies and guidance on sustainable urban communities with regard to facilitating urban pedestrian linkage and permeability. Policy and planning principles in this regard has not changed. I note that Paragraph 8.1.1.1 Urban Design Principles of the CDP with respect to permeability states:

‘A successful place is easy to get to and move through. Places should connect to their surroundings. A successful place provides the optimum amount of choice on how to make a journey and takes into account all forms of movement (pedestrian, cycle, public transport and car). Where possible, connections should emphasise and promote sustainable forms of transport over individual car use’.

The ‘Reason’ indicated for the condition omitting the gated development as drafted by the Inspector, in the case of PL06D.233962, stated: ‘In accordance with ministerial guidelines and national transportation policies regarding access to public transport infrastructure and to retain the woodland amenity of the site as identified in the county development plan’. However this was subsequently re-worded in the Order and Direction to ‘In the interest of visual amenity.’

Cognisance is had to the issues raised with respect to change in level, accessible access, car parking congestion, restricted emergency access and traffic hazard for school children. I consider severing pedestrian connectivity from Overend Way would be counterproductive. Direct access for children walking to from school, also, more direct access to Balally Luas Station for more vulnerable residents is wholly desirable. Issues with respect to changes in ground levels and compliance with Building Regulations are matters of compliance. This is a permitted pedestrian access.

I am cognisant that the Green Schools Programme encourages walking and cycling. Although it is outside of the remit of this application I highlight that sustainable modes of transport must be encouraged and promoted by school management, on a daily basis, given the scale of the school (stated some 450 pupils), to discourage car use and to resolve the traffic issues raised by the school .

The location of the pedestrian link is open in nature and well overlooked by houses in Pirton, it is not akin to a remote alleyway and therefore I see no material issues in respect of anti-social behaviour.

Regard being had to the foregoing I believe that the pedestrian link, as permitted, would give rise to a knock on effect in terms of traffic management to the wider area generally. I am of the opinion that it would not lead to or exacerbate the obstruction of road users or the creation of a traffic hazard on Overend Way. Traffic management on Overend Way is the responsibility of DLRDCC and An Garda Siochana. I see no difficulty in the use of Overend Way and the pedestrian link by primary school children who are supervised by parents / guardians / minders until they are competent to travel to school unaided in an urban environment.

Overall I consider that the permitted pedestrian access is consistent with the zoning objective for the area and complies with national transportation policies regarding access to public transport infrastructure and to council policy to promote and implement through development management pedestrian permeability and linkages to adjacent neighbourhoods and facilities, incl. public transport nodes. Having addressed the matters arising, I consider that the permitted pedestrian access should not be omitted

7.3. Appropriate Assessment

Overall I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the

nature of the proposed development, urban location and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

- 8.1. I recommend that the decision of the planning authority be overturned and planning permission be Refused to the proposed development.

9.0 Reasons and Considerations

1. Having regard to ministerial guidelines and national transportation policies regarding access to public transport infrastructure and to council policy to promote and implement through development management pedestrian permeability and linkages to adjacent neighbourhoods and facilities, incl. public transport nodes as per Section 2.2.7.2 – Policy ST6: Footways and Pedestrian Route’, Section 8.1.1.1 – Policy UD01: Urban Design Principles and Section 8.2.3.1 – Quality Residential Design of the current County Development Plan 2016 – 2022’ it is considered that removal of a pedestrian access would be contrary to policy, be injurious to the amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Fiona Fair

Planning Inspector

23.12.2016