



An  
Bord  
Pleanála

## Inspector's Report PL06D.248456

---

<b>Development</b>	Residential development of 51 no. residential units, providing 42 no. apartments and 9 no. houses with all associated site works.
<b>Location</b>	Newtown Avenue, Blackrock, Co. Dublin
<b>Planning Authority</b>	Dun Laoghaire-Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D17A/0137
<b>Applicant(s)</b>	Crekav Trading GP Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	The Residents of 3, 4, 5, 6 and 7 Craigmores Gardens
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24 <sup>th</sup> August 2017
<b>Inspector</b>	Deirdre MacGabhann.

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	6
3.1. Decision .....	6
3.2. Planning Authority Reports .....	8
3.3. Prescribed Bodies .....	9
3.4. Third Party Observations .....	9
4.0 Planning History.....	11
5.0 Policy Context.....	12
5.1. Development Plan.....	12
6.0 The Appeal .....	13
6.1. Grounds of Appeal .....	13
6.2. Applicant Response .....	14
6.3. Planning Authority Response .....	17
6.4. Observations.....	17
6.5. Further Responses.....	17
7.0 Assessment.....	17
8.0 Recommendation.....	20
9.0 Reasons and Considerations.....	20
10.0 Conditions .....	21

## 1.0 Site Location and Description

- 1.1. The 0.49ha appeal site is situated in Blackrock, south County Dublin. It lies within Blackrock village, to the north of the N31, on Newtown Avenue and what is known as the 'former Europa Garage site'. The site currently comprises an unoccupied car showroom building to the west of the site and a car park to the east of the showroom building. The car showroom building comprises four conjoined sheds, with the two larger sheds to the west of the site. Palisade fencing extends along the boundary of the site (to Newtown Avenue). There is a single large tree (sycamore) on north east corner of the site. Blackrock House, Newtown House and Seapoint Manor, all protected structures, lie to the north east and east of the site.
- 1.2. To the west of the site is Newtown Villas, a short residential street which ends in a cul-de-sac and which is a designated Architectural Conservation Area. Single storey brick cottages lie on both sides of the public road. The ACA is screened from Newtown Avenue by a high stone wall with the entrance framed by two large redbrick piers. The western boundary of the site comprises a c.6m high brick/granite wall.
- 1.3. To the south, the appeal site is bounded by residential development at Craigmore Gardens and Newtown Avenue. The site's southern boundary comprises a high wall which incorporates the gables of the four conjoined sheds towards the south-west corner of the site.
- 1.4. Newtown Avenue is one-way, with traffic travelling north and then west from the N31 in an easterly direction. A contra flow cycle track lies on the northern side of the road and there is pay and display parking along Newtown Avenue in the vicinity of the site.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of the existing garage buildings on the site (c.2,103 sqm) and the construction of a development of three residential blocks between two and four storeys in height, providing 51 no. residential units (42 no. apartments and 9 no. houses, with a GFA of c.7,925.4sqm). It comprises:

- Block A – This four storey L-shaped block lies to the east of the site and will face Newtown Avenue to the east and north. It comprises 39 apartment units and includes a set-back penthouse.
- Block B – This smaller rectangular block lies to the north of the site and will also face Newtown Avenue to the north. It comprises a part two storey and part three storey block providing 3 no. apartments and 1 no. house.
- Block C – This residential block lies along the western side of the site. It comprises 8 no. terraced houses is part two storey (to the west) and part two and a half storeys (to the east).

2.2. The proposed density of the development is 104 units per hectare.

2.3. Landscaped communal open space, which includes a play area, is provided between Blocks A and C and to the north and east of Block A (c.1,925sqm). Due to the poor condition to the existing sycamore tree on the site, it is proposed that this will be replaced with a semi-mature tree. Parking is provided at basement level and includes 67 no. car parking spaces, 50 no. bicycle and 3 no. motorbike spaces. Four no. visitor parking spaces and 22 no. bicycle parking spaces are also provided at grade. Access to the basement car park is via a ramp adjacent to the proposed vehicular access to the site, off Newtown Avenue to the north. The existing vehicular entrance to the south east off Newtown Avenue is to be closed. SUDS features (including a basement attenuation tank) and a green roof (Block A) are included with the development proposals.

2.4. The proposed development includes amendments to the existing western and southern site boundary wall. Section 5.3 of the Planning Report states:

- Western boundary wall, brick wall and 6m in height – will be retained and amended as part of the development (drawing no. 1635 P 111 indicates a height of c.5m to Newtown Villas and c.6m to the appeal site).
- Southern boundary wall - to be retained and amended to a consistent height of 3.5m. (drawing no. 1635 P 111 indicates a height of c.2.6m Craigmore Gardens and c.4.1m to the appeal site).

2.5. Accompanying the application for the development are the following:

- Maps and drawings.

- Proposed arrangements to comply with Part V.
- Planning Report (and attached Notes on Noise and Light)
- Design Statement – Explains the rationale for the design of the development (including the stepped height of it from surrounding development towards its north eastern corner) and demonstrates compliance with standards for urban design, residential density, dwelling mix and open space provision.
- Shadow Studies – Indicating the shadow cast on nos. 1 and 2 Newtown Villas by the existing and proposed development.
- Verified View Montages – Of the existing and proposed development.
- Apartment and Housing Quality Assessment – Demonstrates compliance with the government’s standards for residential development.
- Conservation Assessment – Describing the history of the site, buildings on it and in the vicinity of the site, the adjoining Newtown Villa ACA and the impact of the development on the historic fabric of the area. The report concludes that given the separation between the site and the protected structures, the proposed development would not detract from the setting of the buildings (Seapoint Manor, Blackrock House and Newtown House) or views of or the essential character of the gate to Blackrock House. It also concludes that the development would have little effect on the essential character of the ACA due to the set back of the proposed townhouses, the retention of the six metre boundary wall and the form of Block B adjoining the ACA (two storey, flat roof).
- Arboricultural Report – Describes the one tree on site, a mature Sycamore tree to the north east of the site, which is stated to be in decline and unsuitable for retention. Recommends replacement with a specimen tree of substantial size.
- Landscaping Specification.
- Screening Statement for Appropriate Assessment which concludes that a Stage 2 Appropriate Assessment is not required.

- Screening Statement for EIA which concludes that the development is not likely to have significant environmental effects, or, therefore, require an EIS.
- Energy Statement and Climate Change Impact Assessment.
- Traffic and Transportation Technical Note – Describes the existing traffic and transportation environment for the site (including the results of a speed survey which indicated 85<sup>th</sup> percentile speeds of less than 40km/hr), arrangements for car parking (including the rationale for a minor reduction in parking provision) and provision of visibility splays based on 40km/hr speeds.
- Infrastructure Report – Provides details on arrangements for the disposal of surface water and foul water and water supply.
- Quality Audit in respect of Road Safety, Access, Cycle and Walking – Demonstrates appropriate consideration has been given to all relevant aspects of the development in accordance with DMURS. (See also Drawing no. 60529515-SHT-10-C-0103 Proposed alterations in Response to the Road Safety Audit).
- Construction and Demolition Waste Management Plan – This includes means to maintain lateral stability of the western boundary wall during demolition and construction works, details of proposed working hours and means to manage construction noise, dust and construction traffic.
- Operational Waste Management Plan.

2.6. The proposed development has been designed to overcome the issues which were identified by the planning authority and the Board in their assessment of the previous development proposed on the site under PA ref. D15A/0620 and PL06D.245914 (see page 10 of Planning Report).

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

3.1.1. The planning authority decided to grant permission for the development subject to 34 no. of conditions. Most of these are general conditions. The following are site specific:

- No. 2 – Applicant to submit revised details regarding the south elevation for Block A, to illustrate the fenestration details for apartment no. 34, for agreement.
- No. 6 – Applicant to arrange for the removal of the ‘pay and display’ parking bay (or part of bay) on Newtown Avenue to accommodate the proposed vehicular entrance.
- No. 7 – Applicant to carry out recommendations set out in the AECOM Quality Audit Report.
- No. 8 – Applicant to submit, for agreement, details in respect of ramped entry at new entrance to the site from Newtown Avenue, for agreement.
- No. 9 – Applicant to provide ‘Stop’ sign at proposed new entrance at the back of the existing footpath (Newtown Avenue).
- No. 11 – Applicant to submit details of proposed bicycle spaces for the development, for agreement (additional spaces to be provided for residential apartments at basement level and for visitors at ground level).
- No. 12 – Applicant to ensure that the residential/visitor car parking spaces are constructed to be capable of accommodating future electric charging points.
- No. 14 – Applicant to submit details of works to the adjacent Contra Flow Cycle lane to accommodate cyclists to and from the development on Newtown Avenue.
- No. 23 – Applicant to submit detailed Method Statement directed at minimising the risk of conflict with utilities present in the road and for the protection of the existing culvert. Includes that the applicant shall build the pipe that will discharge the surface water into the Carysfort-Maretimo Stream.
- No. 24 – Applicant to submit details of green roof, for agreement.
- No. 27 – Applicant to replace mature Sycamore tree to the north of the site by a large specimen mature tree.
- No. 29 – Requires archaeological appraisal of the site.
- No. 30 to 32– Requires payment of development contributions.

- No. 34 – Requires payment of a bond/cash sum to ensure the satisfactory completion of services.

### 3.2. Planning Authority Reports

#### Planning Reports

- 3.2.1. The Planning Officer's report (10<sup>th</sup> April 2017) refers to, amongst other things, the policy context for the appeal site and submissions/observations made in respect of the proposed development. It considers that the residential development of the site is consistent, in principle, with the stated objectives of the Blackrock LAP 2015-2021; that the applicant has overcome the Board's stated reason for refusal under PA ref. D15A/0620 and PL06D.245914 and complies with the detailed policies of the County Development Plan and the Local Area Plan (including the Site Framework Strategy for the Former Europa Garage site). It considers that the development has been finished to a very high standard and has considered the context of the development, minimising overlooking and overshadowing. It refers to the sequenced methodology proposed in the Construction and Demolition and Waste Management Plan for the temporary propping of the western boundary wall during demolition and construction of the basement car park and the applicant's consideration of the impact of the development on Newtown Villas during construction works and states that the planning authority is satisfied that measures are proposed to prevent any negative impact on adjoining residential development. The report recommends granting permission for the development, subject to 34 no. conditions.

#### Other Technical Reports

- 3.2.2. On file are the following reports:
- Waste Enforcement – No objections subject to conditions.
  - Housing – No objections subject to conditions.
  - Drainage Planning – No objections subject to conditions.
  - Parks and Landscape Services – No objections subject to conditions.
  - Transportation Planning – No objections subject to conditions.



### 3.3. Prescribed Bodies

- Irish Water – No objections but observations on the development.
- Department of Arts, Heritage, Regional and Gaeltacht Affairs – Recommend pre-development testing of the site for archaeological remains.
- TII – No observations.

### 3.4. Third Party Observations

3.4.1. Nine third party observations were made in respect of the planning application for the proposed development (Kevin Conway, J. Patterson and C.M. Alexander, Linda Galligan, M.C. McCluskey, Anne White, residents of nos. 3 to 7 Craigmore Gardens, Elizabeth Mulville, Phyllis Flynn, Cllr Ossian Smyth). The following issues were raised:

- The redesign of the development is more compliant with the Blackrock LAP than the previously proposed development.
- Development contravenes points nos. 1, 3 and 6 of the Design Principles set out in section 3.5.3 Site Framework Strategy for the site (retention of sycamore tree, active frontage to Newtown Avenue, continuous building line, own door houses with rear gardens to Newtown Villas).
- Block C will overlook the rear gardens and rear windows of at least nos. 65 to 71 Newtown Avenue. This will significantly reduce their living quality, privacy and the value of properties overlooked and contravene policy ES5 of the LAP and the zoning principle of the site (to protect and or improve residential amenity).
- Impact of Block B on 6m high brick wall to the rear of no. 2 Newtown Villas and effect of construction of underground car park on boundary wall.
- Impact of construction of development on Newtown Villas properties. Applicant should monitor each house for impacts of construction work (e.g. for vibration). Applicant should be required to repair any damage arising. Hours of work should be restricted (8am to 5/6pm weekdays and no weekend work/limited weekend work).

- The density of development is excessive.
- The proposed height of the development would have an overbearing effect on the receiving environment. A three storey development would be more appropriate.
- Adequacy of proposed sightlines with large number of vehicles entering/exiting the development where the public road is one-way, narrow and busy. Additional congestion on Newtown Avenue and ability of road to accommodate emergency vehicles with additional traffic created by the development.
- A general mix of dwelling size should be provided, including family homes and two bedroom homes for people who wish to downsize.
- Impact of protected structures (Blackrock House, Newtown House and Seapoint Manor).
- Development is not suitable for the site given its size, density, location and traffic safety.
- Inappropriate design, quality and external finish of development given its location on landmark site in the village of Blackrock. Some aspects of the development appear more like a commercial development than a residential one.
- The underground car park would be a significant source of noise for residents of Newtown Villas and will detract from their residential amenity.
- Lack of clarity regarding full extent of boundary treatment along the southern boundary of the site (including part of the tram shed structure). A contiguous or full length plan of the southern elevation should be submitted showing what treatments are proposed along this southern boundary. Recommend that the existing brick gabled walls of the former tram shed be retained to a minimum height of 4m (measured from ground level at Craigmores Gardens) to maintain the existing visual and historic character of the street.
- Concerns regarding the risk of collapse of the southern boundary wall during demolition process and to safety of family residing in no. 7 Craigmores

Gardens. No methodology to demonstrate how wall can be demolished without access to no. 7 Craigmores Gardens.

- Overlooking of Craigmores Gardens by proposed development (in particular no. 7 which was extended to the rear and which comprises extensively glazed living space) and Newtown Avenue.
- Any vehicle crossover of the pedestrian footpath at the access to the site should be designed in accordance with DMURS (section 4.3.1) in the interest of pedestrian safety.
- The configuration of cycle parking is not compliant with the Dun Laoghaire-Rathdown Cycle Policy cycle parking guidelines (steep ramp, no separate cycle lane on ramp, cycle parking in basement).
- The development should not be gated to promote better social integration.
- Conditions should be included in any permission to require a condition survey of the site's western boundary wall and houses on the east side of Newtown Villas with any damage arising repaired by the developer, protection of the main sewage drain running on the eastern side of Newtown Villas, construction of the grating over the drainage channel at the bottom of the access road to the car park to minimise noise pollution, survey to ascertain and remove any hazardous waste on site, removal of safety wires and supports from garage roof and to prevent workers and visitors to the site from using Newtown Villas to park vehicles.

## 4.0 Planning History

- 4.1. Section 2.0 of the Planning Report summarises the history of the appeal site. Most of the planning permissions referred to are in respect of the car showroom use currently on site. However, I draw the Board's attention to PA ref. D15A/0620 and PL06D.245914 where planning permission was refused by the Board for the demolition of the former Europa Motors Centre building and the construction of a residential development comprising 44 apartment units and nine town houses in three blocks ranging in height from one to four storeys, plus a set-back fifth floor element over three blocks. The development was refused on the following grounds

*'It is considered that the proposed development constitutes overdevelopment of the site and that it does not adequately respond to its neighbouring buildings either in terms of height particularly along the southern boundary or use of materials generally. It is further considered that the proposal would be overbearing and have a negative visual impact on the Newtown Villas Architectural Conservation Area. Communal open space is considered inadequate and of poor quality given the scale of the proposal, and the proximity of Block A to the balconies of Block B together with the location of the northern projection of Block A, would lead to loss of amenity to apartments. It is further considered that unit numbers C1 and C2 have inadequate private open space. The proposal, therefore, would seriously injure the amenities of the area and of property in the vicinity and would seriously injure the amenities of residents in the proposed development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area'.*

## **5.0 Policy Context**

### **5.1. Development Plan**

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

- 5.1.1. The appeal site lies within the administrative area of the Dun Laoghaire Rathdown Development Plan 2016 – 2022. The site is zoned A 'to protect and-or improve residential amenity' and is situated to the east of the Newtown Villas Architectural Conservation Area and to the south east of a zone of archaeological potential associated with Recorded Monument DU 023-008. Protected structures lie to the north-east and east of the site, Blackrock House, Blackrock House gates, Newtown House and The Courtyard/Seapoint Manor (see attachments). Section 8 of the Plan sets out policies in respect of residential development (Principles of Development), including standards for houses, apartments, open space and parking provision. Section 4 deals with landscape, heritage and biodiversity and affords protection to Natura 2000 sites (policy LHB 22). These include South Dublin Bay and River Tolka SPA (site code 004024) and South Dublin Bay SAC (site code 000210) designated along the coast immediately east of Blackrock (see attachments).

5.1.2. Falling within the Blackrock LAP, the site is identified for residential development at a density of 50+ units per hectare to a maximum four storeys in height. The Plan contains a *Site Framework Strategy* for the site 'Former Europa Garage' (see attachments) and Policy BK06 of the plan seeks to ensure that any development proposals are in accordance with the Strategy. Strategy objectives include the following:

*ES5 It is an objective of the Council that the design of any residential development on the site shall ensure no undue overlooking or overshadowing either within the scheme or of adjoining properties. A shadow analysis shall be required to be submitted with any application for redevelopment of the site.*

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. The appeal is made by the residents of nos. 3, 4, 5, 6 and 7 Craigmores Gardens. Grounds of appeal are as follows:

- Welcome the development of the site for residential purposes and the reduction in height and scale of the development compared to the previously refused scheme (PA ref. 15A/0620 and PL06D.245914).
- There remains a lack of clarity regarding the height of the wall along the southern boundary and subsequent issues regarding visual impact, demolition works and overlooking (in particular of no. 7 Craigmores Gardens). Request, therefore, that the Board impose two no. conditions in any grant of permission:
  - That the stone walls and gables ends of the former tram shed (and associated structures) adjacent to no. 7 Craigmores Gardens shall be retained to a consistent height 3.5m. The height of the wall at 3.5m, shall be measured from natural ground level on the southern side of the boundary (i.e. from within no. 7 Craigmores Gardens).

- That an amended Construction and Demolition Waste Management Plan be submitted outlining the extent of walls along the southern boundary to be demolished/rebuilt, how the existing walls will be stabilised during works, what access will be required to the garden of no. 7 Craigmere Gardens, how much of the garden will be unavailable and for how long, how the health and safety of the neighbouring properties will be provided, what access will be required to Craigmere Gardens (including HGVs).
- The tram sheds and the walls they sit on are over 100 years old. There is concern that during any demolition process, the walls may be prone to collapse, in particular to the owners/occupiers of no. 7 (and their three small children) who may not be able to access areas of the garden during construction/demolition works. No reference is made in the Construction and Demolition Plan and Waste Management Plan to securing the stability of walls along the common boundary with no. 7 Craigmere Gardens. Demolition of the walls will require access to no. 7 Craigmere Gardens. No information has been provided in this regard. It also raises concerns regarding construction vehicle access and associated safety, noise and dust on the road.
- Uncertainty over the extent of walls to be demolished/retained has implications in terms of overlooking, in particular of no. 7 Craigmere Gardens whose rear garden and internal living space (extensively glazed) will potentially be overlooked by the development.

## 6.2. Applicant Response

6.2.1. The applicant makes the following response to the appeal:

### Survey of Southern Boundary and Appeal Site

- A survey of ground levels and boundary height of the property at no. 7 Craigmere Gardens was undertaken by an independent surveyor, with the agreement of the property owner, on Monday 8<sup>th</sup> May 2017. Results are attached to the submission and are summarised as follows:
  - Existing ground levels of no. 7 Craigmere Gardens property range from 17.563m to 18.54m OD.

- Height of existing (northern) stone boundary at No. 7 Craigmore Gardens property ranges from 20.26m to 20.44m OD.
  - Existing gable height of sheds range from c.23-26m at the apex.
  - The spot levels collected by survey indicate that the height range of the existing stone boundary wall (relative to adjacent ground levels on no. 7 Craigmore Gardens property) is c.2.17m to 2.43m.
- The survey confirms that brick gables of the existing tram sheds would be removed under the proposed permission and the existing southern stone boundary wall would be maintained at a height in excess of 2m (as it follows the existing topography of the property at no. 7 Craigmore Gardens), thus remaining intact at a height approximately to the eaves of the property at no. 7 Craigmore Gardens (as per Section D-D, Drawing no. 1635 P 111, submitted with application). The height of the retained stone wall, coupled with the lower ground level proposed for the development site (c.1.5m to 2.5m lower than the property at no. 7 Craigmore Gardens) would adequately prevent any undue overlooking and protect the privacy of no. 7 Craigmore Gardens.

#### Extent of Southern Boundary that will be Retained, Demolished or Rebuilt

- No. 7 Craigmore Gardens shares 40m of the Europa's site boundary. The current boundary varies in height from east to west and is made up of a stone boundary wall together with brick gables of the former tram shed.
- The lower stone boundary wall varies in height from 2.1m to 2.4m west to east. Built up against the north face of the wall are brick gables of the former Europa tram sheds which range in height above the stone wall between c.2.5m and 5.5m from parapet to apex. Sections DD and CC (Drawing No. 1635 P 111) was relatively accurate given the information on ground levels that was available.
- The brick gable walls of the existing tram shed will be removed while the existing stone wall will be retained at a height in excess of 2m (Drawing No. 1635 P 112 South Elevation Sections CC, DD and EE as Proposed – submitted with response to the appeal).

- The proposed south elevation complies with the Site Framework Strategy for the Former Europa Garage as set out in the Blackrock LAP.

#### Height of southern stone boundary wall and Overlooking

- The topography of the property at no. 7 Craigmore Gardens is undulating, with the adjoining ground level varying from c.17.5m OD and 18.5m OD. The existing stone wall when viewed from no. 7 Craigmore Gardens varies from c.2.4m above ground level to c.2.1m. The proposed ground level on the Europa site is c.16m OD. The permitted wall (2.1m to 2.4m) will be double this height (4.2m to 4.8m) when viewed from the proposed development to the south i.e. in excess of 4m (Drawing No. 1635 P 112 of submission).
- The significant graduation in site levels between the properties is a mitigating factor to prevent any visual impact or undue overlooking of the property at no. 7 Craigmore Gardens (stone wall will remain intact at a height of approximately to the eaves of the property).
- The appellant's request to retain the boundary wall at a constant height of 3.5m, when taken from the natural ground levels at no. 7 Craigmore Gardens, is not feasible and would seriously injure the residential amenity of prospective scheme residents due to overshadowing and overbearing. The wall would be between 5.6m and 6.2m in height when seen from within the scheme (illustrated in Drawing No. 1635 P 114, Sections C-C, D-D and E-E). A 3.5m wall would overshadow the private open space associated with the proposed terraced houses thereby contravening Specific Design Objective ES5 of the Blackrock LAP.

#### Construction and Demolition Works Arrangements

- The applicant notes the appellant's concerns and will deal with these through more detailed consultation after a grant of planning permission. The discussions will inform the detailed Construction and Demolition Plan and Waste Management Plan prior to any works commencing on site.



### **6.3. Planning Authority Response**

- 6.3.1. In their response to the appeal (17<sup>th</sup> May 2017), the planning authority refer the Board to the Planning Officer's report in respect of the proposed development.

### **6.4. Observations**

- 6.4.1. There are no observations on file in respect of the appeal.

### **6.5. Further Responses**

- 6.5.1. On the 25<sup>th</sup> July 2017 the applicant's response to the appeal was circulated to the appellant and the planning authority. The appellant's response (14<sup>th</sup> August 2017) provides an alternative scenario, with the boundary wall 2.8m to 3.5m in height (as measured from ground level within no. 7 Craigmere Gardens) to the east of the front building line of No. 7, with the wall dropping to c.2.3m to the west of the front building line of the property. The appellant argues that the option protects current levels of amenity enjoyed within the principle living space and rear garden of No. 7 Craigmere Gardens and maintains the amenity of the rear garden of the proposed townhouse (southern end of Block C). Further, it is stated that the higher section of wall would be adjacent to the side passage of a townhouse and an extensive area of communal space where it would be screened by the proposed landscaping.
- 6.5.2. In their letter to the Board dated the 28<sup>th</sup> July 2017 the planning authority state that the submitted boundary treatments are considered acceptable and request that the Board concur with their decision.

## **7.0 Assessment**

- 7.1. I have read the file and inspected the appeal site. I have had regard to the matters raised in the Board's previous decision to refuse permission for the development on the appeal site, notably overdevelopment, inadequate response to neighbouring buildings, height and open space provision, and I am satisfied that the proposed development has adequately addressed these matters. In particular, the proposed development is adequately separated from neighbouring buildings, is stepped up in height towards the north east corner of the site, adequately addresses Newtown

Avenue and provides high quality open space. Units meet, and in some cases exceed development plan and government standards, and external finishes have been simplified and integrate well with surrounding development. I consider therefore that (a) the development accords with the policies and objectives of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and the Site Framework Strategy set out in the Blackrock LAP 2015-2021, and (b) the issues for this appeal relate solely to the matters raised by the appellant, specifically the proposals in respect of the southern boundary wall, the consequences for this for overlooking and access during construction.

#### Treatment of Southern Boundary Wall

- 7.2. Craigmores Gardens lies immediately south of the appeal site. It comprises a cul-de-sac with single storey dwellings along each side of the road. No. 7 Craigmores Gardens lies at the northern end of the road, immediately south of the conjoined gable ends of the former tram sheds/car showroom. At its nearest, the residential property lies c.3.5m from the boundary wall. It has been extended to the rear and glazed living accommodation faces the rear garden area and boundary wall.
- 7.3. The boundary wall is partly overgrown with ivy and it is difficult to see the exact nature of the wall, particularly its lower part. However, it appears to comprise at its lower levels a stone (or partly stone) construction, with brick above forming the gable ends of the four sheds, with the two larger and more western sheds more dominant.
- 7.4. In response to the appeal, the applicant has submitted a survey of ground levels within the grounds of No. 7 Craigmores Gardens and the appeal site, height of the stone boundary wall and gable height of the existing sheds. It is evident from the applicant's submission that the existing wall will be retained along the shared boundary with No. 7 Craigmores Gardens and the gable end of the shed, which extends above, will be removed. In their response to the appeal, the applicant clearly proposes to retain the boundary wall to a height of between 2.1m to 2.4m when viewed from the appellant's property, extending to the approximate eaves height of the property. From the appeal site, due to the difference in ground levels between the sites, it will be range in height from 4.2m to 4.8m.

### Impact on Amenity and Overlooking

- 7.5. Block C in the proposed development will lie immediately north of No. 7 Craigmore Gardens, in approximately the position of the more easterly of the two larger sheds on the appeal site. Block C has a similar ridge height to that of the existing shed and there are no windows in the southern elevation of the block. The western and southern elevations of Block A are substantially removed from the property (with all windows and balconies in excess of 25m of the garden of No. 7 Craigmore Gardens), nearest views will be oblique and obscured by the retained southern boundary wall which will be c.4.2m to 4.8m in height when viewed from the appeal site. I do not consider that the proposed development, with the retention of the wall to a height of between 2.1m and 2.4m to No. Craigmore Gardens, would cause any substantial or unreasonable overlooking. Therefore, I do not consider that it is necessary to require the applicant to increase the height of this wall to 3.5m as proposed by the appellant on this ground. In addition, as argued by the appellant, the wall would be up to 6.2m in height when viewed from the proposed development and would detract from the amenity of the development and its open space and give rise to overshadowing.
- 7.6. In response to the appeal, the appellant presents a further option to the Board in respect of the height of the boundary wall (14<sup>th</sup> August 2017), where the wall along the southern boundary is maintained at a height of +21.380 between the front building line of No. 7 Craigmore Gardens and the rear boundary of the property in the interest of protecting the established amenity of the property. I would accept that the buildings on the appeal site partly frame No. 7 Craigmore Gardens and contribute to the setting and quiet amenity of the property. The option put forward by the appellant proposes a relatively modest increase in the height of the wall (c.0.71m) for a part of the shared boundary (see Option A, appellant's submission, 14<sup>th</sup> August 2017) without detracting from the amenity of the rear garden of the proposed adjoining townhouse in Block C or to any significant degree from the communal open space, in particular having regard to the proposed arrangements for landscaping which include tree planting along this boundary (Landscape Strategy Proposals, drawing no. 1371-9030). I would recommend, therefore, that the boundary wall be retained to a height of +21.380 between the front building line of

No. 7 Craigmore Gardens and the rear boundary of the property, in the interest of residential amenity.

### Construction and Demolition Works

- 7.7. The existing sheds on the appeal site lie in very close proximity to the appellant's property and raise issues for safety and access during construction. I note that the applicant's Construction, Demolition and Waste Management Plan proposes a sequenced methodology of temporary propping to maintain the lateral stability of the boundary walls when the existing roof structure is removed and will be informed by the nature and scope of the basement level dig.
- 7.8. Whilst I acknowledge that the detailed approach to construction has not, therefore, been set out, the essential approach to be adopted is both reasonable and consistent with standard industry practices. If the Board are minded to grant permission for the development, this matter can be addressed by condition, with specific reference to the applicant addressing in detail, the means to carry out the demolition exercise, retain the southern boundary wall and safeguard the adjoining property during construction works.

## **8.0 Recommendation**

- 8.1. Having regard to the above, I do not consider that there is a lack of clarity regarding the treatment of the southern boundary of the site or that proposed development would give rise to overlooking of adjoining properties. Matters regarding detailed construction methodology for the demolition of structures on the site can be dealt with by condition.

## **9.0 Reasons and Considerations**

- 9.1. Having regard to the layout, scale and form of the proposed development, which is in accordance with the policies and objectives of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and the *Site Framework Strategy* for the site set out in the Blackrock Local Area Plan 2015-2021, the topographical differences between the site and the adjoining landholding to the south and the proposed treatment of the southern boundary wall, it is considered that, subject to compliance with the

conditions set out below, the proposed would not give rise to overlooking or seriously injure the visual or residential amenities of the area, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 6<sup>th</sup> June 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The permission relates to the provision of 51 no. dwellings, comprising 9 no. houses and 42 no. apartments.

**Reason:** In the interest of clarity.

3. The southern boundary wall shall be retained to a height of +21.380 between the front building line of No. 7 Craigmere Gardens and the rear boundary of the property. Prior to the commencement of development, revised plans showing these arrangements shall be submitted to the planning authority for written agreement.

**Reason:** In the interest of clarity and residential amenity.

4. Prior to the commencement of development, a revised south elevation for Block A, which indicates the fenestration details for apartment no. 34 as

illustrated on drawing no. 1635 P 104, such that they accord with the submitted floor plans, shall be submitted to the planning authority for written agreement.

**Reason:** In the interest of clarity.

5. Prior to commencement of the proposed development, a detailed plan and elevation drawing shall be submitted to the planning authority for written agreement indicating the following:

- (a) A ramped entry treatment for pedestrian priority at the proposed new/redesigned vehicular entrance to the proposed residential development on Newtown Avenue in accordance with the guidance and standards set out in Chapter 4.2.6 of the 'Design Manual for Urban Roads and Streets' (2013) / the 'Traffic Management Guidelines Manual (2003)'. The tactile paving at either side of the ramp shall be shown as buff colour as per the following documents 'Guidance on the use of tactile paving surfaces - DETR (UK)'.

- (b) the provision of a STOP sign at the proposed new/redesigned vehicular entrance to the proposed residential development at the back of the existing footpath on Newtown Avenue.

**Reason:** In the interest of the proper planning and sustainable development of the area and road safety.

6. Prior to the commencement of development, detailed design of the ramp to the basement car park, to be in accordance with the 'Design Recommendations for Multi Storey and Underground Car Parks - Fourth Edition' shall be submitted to the planning authority for written agreement.

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

The permission relates to the provision of 51 no. dwellings, comprising 9

no. houses and 42 no. apartments.

**Reason:** In the interest of clarity.

7. Prior the commencement of development, arrangements for the removal of a 'Pay and Display' parking bay (or part thereof) on Newtown Avenue to accommodate the proposed vehicular entrance, shall be submitted to and agreed in writing with the planning authority.

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

8. Prior to commencement of development, drawings and details shall be submitted to the Planning Authority for written agreement for the proposed works to the adjacent Contra Flow cycle lane to accommodate cyclists to and from the proposed residential development on Newtown Avenue.

REASON: In the interest of the proper planning and sustainable development of the area.

9. Prior to commencement of development, drawings and details shall be submitted to the Planning Authority for written agreement indicating the following:

- (a) Details for the required total of 62 secure bicycle spaces (an additional 12 bicycle spaces to the proposed 50) for the 42 number residential apartment units at basement level, and

- (b) Details for the required total of 26 secure bicycle spaces (an additional 4 bicycle spaces to the proposed 22) for the 51 number residential house/apartment units for visitors at ground level.

These required bicycle spaces shall be shown covered, secure and correctly designed in accordance with Dun Laoghaire

Rathdown County Council Cycling Policy.

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

10. Prior to the commencement of development, details of the green roof shall be submitted to the planning authority for written agreement. Details shall include a construction plan and a post construction maintenance specification and schedule. Maintenance contractors with specialist training in green roof care shall be used.

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

11. The mature Sycamore tree to the north of the site, which has been identified as being in decline in the Arborist report shall be replaced by a large specimen mature tree within the first planting season following the occupation of houses and apartments on the site. Should the tree, within a period of five years from the completion of the development, die, is removed, or become seriously damaged or diseased, it shall be replaced in the next planting season with another of similar size and species, unless the planning authority gives its written consent for any variation. Full details of the proposed tree shall be submitted to the planning authority for written agreement.

**Reason:** In the interest of visual amenity.

12. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended,



unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

13. Prior to the occupation of the development, the recommendations of the AECOM Quality Audit shall be implemented in full, to the satisfaction of the planning authority.

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

14. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

15. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. One clearly identified car parking space shall be assigned permanently to each residential unit and shall be reserved solely for that purpose. These

residential spaces shall not be utilised for any purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

- (b) The four no. surface level visitor spaces shall be clearly marked as visitor parking only.
- (c) The Applicants shall ensure that the proposed residential/visitor car parking spaces are constructed so as to be capable of accommodating future electric charging points as required.
- (d) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the site and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units and in the interest of proper planning and sustainable development of the area.

16. 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. In this regard, prior to the commencement of development, details of the proposed rehabilitation of existing lakes, capacities, weirs and transfer pipework shall be submitted to the planning authority for written agreement.

**Reason:** In the interest of public health.

17. All works to be carried out on the public road/footpaths shall be carried out to the satisfaction of the planning authority prior to the occupation of the development.

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

18. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including means to carry out the demolition works, retain the southern and western boundary walls, safeguard the adjoining properties, hours of working, noise management measures, vehicle cleansing/wheel washing, means to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works, on-site parking of vehicles during construction and off-site disposal of construction/demolition waste.

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

19. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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.

20. Proposals for an estate/street name, house numbering scheme and

associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential development.

21. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

22. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

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

23. 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.

24. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be

referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

25. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

26. The landscaping scheme shown on drawing no. 1371 – 9030 to 9033, as submitted to the planning authority shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity

27. Prior to commencement of development, the developer shall lodge with the planning authority, a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and

maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

28. 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.

---

Deirdre MacGabhann  
Senior Planning Inspector

24<sup>th</sup> August 2017