



An
Bord
Pleanála

Inspector's Report PL06S.248591

Development	Demolition of industrial units, warehouse and office spaces, construction of 6 houses with access from approved development (Reg. Ref. SD07A/0977/EP) and associated site works.
Location	3,3a,4,5,6 & 9 Landys Industrial Estate, Knocklyon
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD16A/0377
Applicant(s)	Peter McDermott
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party V Grant
Appellant(s)	1. Niamh Marren & Paul Quigley 2. Paul Conheady & Frances McIver
Observer(s)	None

Date of Site Inspection

24th August 2017

Inspector

Susan McHugh

1.0 Site Location and Description

- 1.1. The appeal site is located within a residential area in Knocklyon.
- 1.2. The site comprises 3 no. existing commercial units which once formed part of a larger industrial area known as Landy's Industrial Estate. The site currently consists of a series of single storey warehouses and storage facilities, office space, a car repair garage and a small steel products industrial unit. The site is adjoined on all sides by existing residential development.
- 1.3. Access to the site from the Knocklyon Road is via Hersil Wood which serves the newly constructed residential development by the same name to the south. These houses are two storey with attic accommodation.
- 1.4. There are three detached two storey residential dwellings to the west of the appeal site, located at the entrance to the Hersil Wood Estate. The house bounding the site to the west is known as Sylvan Lodge. To the north the site is adjoined by the rear boundaries of a row of semi-detached dwellings in Coolamber Court, and to the east by the rear boundaries of 5 no. semi-detached houses in Ballyroan Court.
- 1.5. The existing units on site extend to and form the boundary with the rear gardens of houses 4 to 8 Ballyroan Court to the east. The existing buildings to the north are stepped off the 2m high blockwork boundary wall with the rear gardens of residential properties in Coolamber Court. The existing units to the east also in part form the boundary with Sylvan Lodge and in part are stepped off the boundary. The site slopes down from south to north. The appellant's houses are located at no. 6 and 7 Ballyroan Court to the east.
- 1.6. The site is roughly rectangular in shape and has an area of approx. 0.18ha.

2.0 Proposed Development

- 2.1. The application was lodged with the planning authority on the 2/11/2016 with further plans and details submitted on 12/04/2017.
- 2.2. The proposal as amended comprises;

- Demolition of existing buildings which comprise a series of single storey industrial units, warehouse and office spaces (c. 1010sq.m), and construction of 6 no. dwellings in a terrace:
 - 4 no. terraced, 2 storey, 4 bed units, on sites 2,3,4 and 5 (Type A)
 - 2 no. dormer style, 2 storey, 3 bed units, each at either end on sites 1 and 6 (Type B)
- 2.3. The ridge height of house type A is 7.74m stepping down to 7.45m for house type B. The roof profile of house type B is hipped with an eaves height of 5.14m. The mid terrace dwellings will have an overall floor area of 142sq.m. and a depth of 14.85m. The end of terrace dormer dwellings will have a smaller floor area of 128sqm and a reduced depth of 12.6m. The effect of which is that they are set back approx. 0.9m from the front building line and approx. 1.2m from the rear building line of the terrace.
- 2.4. External finishes include red brick with reconstituted stone/concrete to window surround to the front elevation with selected render to gable and rear elevations and concrete roof tiles. Solar panels are proposed on the front south facing roof slope.
- 2.5. Landscaped areas are proposed to the front of the dwellings, with screen planting proposed along the rear boundaries with the existing houses to the rear within Coolamber Court. A 2.m high block boundary wall is to be retained and repaired where required along the boundaries with adjoining residential properties to the east north and west.
- 2.6. Rear gardens for the terraced houses, house type A range between 100 sq.m. and 135 sq.m. in area, while the end of terrace houses, house type B range between 125sq.m. and 238 sq.m. The gable of house on site no.1 is set back approx. 1.4m from the boundary with Sylvan Lodge to the west, while the gable of the house on site no, 6 is set back approx. 2.6m from the rear boundary of the adjoining houses at no. 6, 7 and 8 Ballyroan Court.
- 2.7. Access is proposed via the existing access road from previously approved development granted under SD07A/0977/EP which is currently under construction. Each unit will have two car parking spaces to the front.
- 2.8. The application is accompanied by:
- Engineering Services Report.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 14 no. conditions which include;

Condition No. 2 – Surface water disposal requirements.

Condition No. 3 – Landscape plan to be submitted.

Condition No. 4 – Naming and numbering.

Condition No. 5 – Taking in charge.

Condition No. 6 – Construction Waste Management Plan.

Condition No. 7 & 8 – Kerb and footpath and public lighting requirements.

Condition No. 10 – Waste management requirements.

Condition No. 11 – Construction and demolition phase requirements.

Condition No. 12 – Hours of construction requirements.

Condition No. 13 & 14 – Section 48 Development Contributions and security bond.

3.2. Planning Authority Reports

3.2.1. Planning Reports (dated 13/12/16 and 9/5/17)

Basis for the planning authority decision includes:

- Initial concerns in relation to overbearing and overshadowing impacts on adjoining properties to the west and east were addressed by way of further information, including revised house designs.
- Further information also addresses matters in relation to; potential waste materials and hazardous materials; and surface water drainage.

3.2.2. Other Technical Reports

Surface Water Drainage – Following receipt of further information proposals considered to be acceptable subject to conditions. Note: This report was not available at the time of writing.

Environmental Health Officer – No objection subject to conditions.

Parks & Landscaping Services Department – Recommended the submission of a landscape plan by way of further information.

Roads – No objections, subject to conditions.

Environment, Water & Climate Change – Recommends no objection subject to conditions.

3.3. **Prescribed Bodies**

Irish Water – (Reports dated 4/12/16 and 25/4/17)

Outstanding matters remain in relation to fire hydrants, and water main connections to each dwelling showing associated meters, and separate foul drain connections to each dwelling.

3.4. **Third Party Observations**

Four submissions were received objecting to the application. The issues raised are summarised as follows:

- Concern in relation to scale, siting and layout of development.
- Proximity of development to shared boundaries with existing residential properties.
- Inaccurate drawings delineating boundaries.
- Overbearing, overshadowing, visual intrusion.
- Contrary to development plan policy on backland and infill development.
- Devalue property, shadow studies required.
- Terraced housing out of keeping with the area.
- Foul sewage drainage invert levels required.

4.0 Planning History

Parent Permission for Residential Development to the south including access road.

PA Reg. Ref. SD07A/0977 ABP PL06S.229096 Permission **granted**

17/12/2009 for 56 dwellings comprising 23 houses and 33 apartments. File attached.

PA Reg. Ref. SD07A/0977/EP Extension of duration permission **granted**

04/07/2013 which expires 17/12/2018.

There were a number of amendment permissions to the parent permission which also included the access road. These include;

PA Reg. Ref. SD13A/0240 ABP PL06S.243058 File attached.

PA Reg. Ref. SD09A/0127 and **PA Reg. Ref. SD09A/0303**

PA Reg. Ref. SD09A/0127/EP Extension of duration of permission **granted**

14/05/2017 which expires on 30/06/2019.

PA Reg. Ref. SD09A/0303/EP Extension of duration permission **granted**

14/05/2017 which expires on 11/11/2019.

5.0 Policy Context

5.1. Development Plan

5.1.1. South Dublin County Development Plan 2016-2022

The relevant document is the South Dublin County Council Development Plan 2016-2022. The site is zoned RES - '*To protect and/or improve Residential Amenity*'.

- Chapter 2 refers to housing, and Chapter 11 refers to Implementation.
- Section 2.4 of Chapter 2 considers Residential Consolidation – Infill, Backland, Subdivision & Corner Sites.
- H17 Objective 2: To maintain and consolidate the County's existing housing stock through the consideration of applications for housing subdivision,

backland and infill development on large sites in established areas, subject to appropriate safeguards and standards identified in Chapter 11 Implementation.

- Section 9.1.4 refers to Older Buildings, Estates and Streetscapes.
- Chapter 11 sets out development standards and criteria.
- Infill Sites are addressed in Section 11.3.2.

5.2. Natural Heritage Designations

None within the vicinity of the site.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal against the decision to grant permission by the planning authority has been lodged by Kiaran O'Malley and Co. Ltd. Town Planning Consultants on behalf of

- (i) Niamh Marren and Paul Quigley, 6 Ballyroan Court, Templeogue, Dublin 16, and
- (ii) Paul Conheady and Frances McIver, 7 Ballyroan Court, Templeogue, Dublin 16.

Both neighbours are located to the east of proposed house No. 6 of the subject proposal and in principle welcome a residential development of the site. In summary, it states:

- Relationship with adjoining houses - Both house no. 6 and 7 Ballyroan Court have existing single storey extensions to the rear, both were constructed as exempted development, and have not been indicated on plans submitted. As such the impact on these houses has not been fully assessed.
- Rear boundary wall – Details on height of proposed rear boundary wall unclear, uncertain whether the existing wall is to be retained or new block wall is to be constructed, request that a condition be attached requiring the

retention of the existing wall. Failing that a condition requiring a new boundary be constructed immediately following demolition and to be 3m in height.

- Inadequate response to further information – response to item no. 1 omits a topographical survey, response to item no. 2 required a redesign of house no. 6, to include a separation distance of 3m to the eastern boundary and a single storey extension, neither revision was made. Response to item no. 3 is derisory and details in relation to hazardous waste should be provided prior to the application being determined.
- Overbearing - Layout of No. 6 and 7 Ballyroan Court has not been correctly shown on lodged plans. Absence of detail in relation to site levels, and separation distances indicated on plans relate to first floor and not the rear extensions which are c. 5m to No. 7 and c. 5.7m to No. 6. Context elevation drawing C-C as viewed from Ballyroan Court not included. Impact from proposed dwelling no. 6. on house no. 6 and 7 Ballyroan Court would be seriously injurious to their residential amenity and materially contravene the zoning objective for the area.
- Overshadowing - No overshadowing assessment carried out on which the planning authority could base their assessment.
- Overlooking – From first floor rear windows of existing houses no. 5 and 6 Ballyroan Court of proposed dwelling no. 6 has not been considered by the Council.
- Proposed Foul Drainage – does not comply with the standards set out in the Greater Dublin Regional Code of Practice for Drainage Works in respect of minimum separation distances of three metres to public sewers as set out in section 6 and as required by condition 2(4)(d) of the permission which has not been provided for dwelling no. 1.
- Demolition / Rock Crushing – given the presence of hazardous waste material within the site including asbestos concern about further dust and other airborne particulates from demolition and rock crushing on site. Request a condition be included that expressly omits any rock crushing as part of the demolition phase of the proposed development.

- Revised Layout - Suggest rotating the scheme 90-degrees whereby the rear elevations of the proposed dwellings would face the rear elevation of Ballyroan Court or dwelling no. 6 could be single storey.
- Construction Hours – request that condition no. 12 be amended to match the times in condition no. 10 of Reg. Ref. SD09A/0127 of 8am start and 6pm finish.

6.2. Applicant Response

None received.

6.3. Planning Authority Response

The planning authority confirmed its decision and issues raised in the appeal have been covered in the planner's report.

6.4. Observations

None.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Design and Layout
- Residential Amenity - Overbearing/Overshadowing/Overlooking
- Boundary Treatment
- Foul Drainage
- Other Matters
- Appropriate Assessment

7.2. Design and Layout

- 7.2.1. The proposal as amended, namely 6 dwellings, equates to a density of approx. 33 units per hectare. Whilst I would note that the density is relatively low, it is higher than the densities prevailing on adjoining lands notably to the east at the entrance to the Hersil Wood estate, and comparable with the residential estates to the north, east and south.
- 7.2.2. The surrounding area is characterised by a mixed pattern of development comprising largely two storey, semi-detached dwellings to the north, east and south and detached two storey houses to the west. The scheme, as amended, provides for a mix of two storey terraced and dormer dwelling units which are considered acceptable on this infill site.
- 7.2.3. The proposed layout entails dwellings in a row facing onto Hersil Wood. The terrace has a dormer style house at either end, both of which are stepped back from the middle terrace to the front and rear, and are roughly in line with the adjoining two storey detached houses to the west. The proposed dwellings will back onto a shared boundary with five semi-detached houses in Coolamber Court to the north and five semi-detached houses in Ballyroan Court to the east.
- 7.2.4. The appellant has suggested that the layout of the scheme could be amended by rotating the scheme 90-degrees whereby the rear elevations of the proposed dwellings would face the rear elevation of Ballyroan Court. It is also suggested that dwelling no. 6 could be single storey.
- 7.2.5. I also note that the planning authority expressed concern in terms of the design of the scheme and of house no. 6 in particular given its proximity to the adjoining houses in Ballyroan Court. In response to a request for further information the scheme was revised to include a terrace and a redesign of house no. 6 and no. 1 were submitted.
- 7.2.6. I see no merit in the appellants suggested revised layout or the omission of house no.6, which in my opinion would result in an inferior layout and would conversely have a seriously negative impact on existing residential properties to the north and west. I also consider that the proposed layout allows the most efficient use of the site and in particular it provides the maximum quantum of open space for each dwelling.

7.2.7. I am satisfied that the proposed layout takes account of the local context and will contribute positively to the streetscape, and complement the new residential development to the south, and is an appropriate form of infill development on this site.

7.3. Residential Amenity

Having regard to the Guidelines for Sustainable Residential Development and the provisions of the current development plan the acceptability or otherwise of the proposed development will be subject to the need to attain a balance between the reasonable protection of the amenities and privacy of adjoining property and the need to provide for additional residential development at this location. I propose to address such matters in the following sections.

7.3.1. *Overbearing*

The crux of this appeal is the relationship of the proposed development with the existing adjoining residential properties, and specifically house no. 6 and 7 Ballyroan Court. Both houses have rear garden lengths of approx. 9.9m. and 10.3m respectively. Importantly however both houses have been extended at ground floor level to the rear, thereby reducing the separation distance to the rear boundary to c. 5.7m to No. 6 and c. 5m to No. 7.

The appellant contends that the impact of the proposed development was not correctly assessed by the planning authority as the site layout plan did not identify these rear extensions. They also note that there was an absence of detail in relation to site levels, and that the separation distances indicated on drawings submitted, relate to the first floor and not the rear extensions. They also note that context elevation drawing C-C as viewed from Ballyroan Court is not included.

I note that the planning authority in considering the impact of the development on the residential amenities of these properties and Sylvan Lodge to the west requested a revised design for house no. 6 and house no.1. The appellant

contends that the response to the further information request lacks sufficient detail to allow a proper assessment.

While I accept that the response to the further information request did not include all the information/ modifications requested, I consider that the revisions to the scheme took due cognisance of the planning authority's concerns, and that they had sufficient information to determine the application.

From my inspection of the site, I noted that ground levels on the appeal site are lower than the adjoining houses in Ballyroan Court. I also noted the site level difference between house no. 6 and 7 with the latter being slightly higher. I have examined the cross section drawings and elevation drawings and note a labelling error on Drawing no. 14-028-PL-2.001 (which is labelled west elevation when it should read as east elevation). I am satisfied that this elevation does in fact indicate how the development will appear as viewed from the adjoining houses to the east.

I would also note that the rear boundaries to both properties comprise of the existing rear and side walls of the existing buildings on site. The rear boundaries are heavily planted and vary in height from approx. 2.5 to 3m.

Notwithstanding the fact that both houses have extended at ground floor, I am still satisfied that with separation distances of approx. 12.9m. and 12.5m respectively from the rear building line of no. 6 and 7 Ballyroan Court to the gable of house no. 6 is an acceptable separation distance in an urban area. I also note there are no windows on the proposed gable to house no. 6.

I am satisfied that the proposed house design of house no. 6, which includes a hipped roof with an eaves height of 5.14m. and ridge height of 7.45m, set back 2.6m from the rear boundary with house no. 6 and 7, will not be overbearing.

7.3.2. Overshadowing

The appellants have raised concern in relation to the impact of house no. 6 on the rear of their properties in relation to overshadowing. In particular, they contend that this element of the proposed development was not properly assessed by the planning authority and that a shadow analysis should have been submitted.

I note that the proposed house no. 6 is located to the west of these properties and located 2.6m to their rear boundary. I also noted at the time of my site inspection at around midday that both gardens received unobstructed sun light from the south.

I consider, given the western orientation of their rear gardens, difference in site levels and separation of house no. 6, that any overshadowing impact will not be significant.

7.3.3. *Overlooking*

The appellants have also raised concern in relation to overlooking from first floor rear windows of existing houses no. 5 and 6 Ballyroan Court of proposed dwelling no. 6 and that this has not been considered by the Council. I would agree with this observation, and although not ideal, I would note that house no. 6 is provided with a very generous rear garden of 238sqm. It is also accepted that with any new infill development there will be a level of overlooking from existing adjoining development. I am satisfied that the quality and enjoyment of the open space for the future occupants of house no. 6 will not be significantly diminished.

In conclusion, I am satisfied that the proposed scheme, which is relatively modest in scale, utilises the site, in an appropriate form. I am also satisfied that the proposed design, layout, and height and site levels have taken cognisance of adjoining development and would not seriously injure the residential amenities of adjoining residential properties.

7.4. **Boundary Treatment**

- 7.4.1. The existing boundaries to the site comprise blockwork walls along the east and northern boundaries and the external walls of the units along the western boundary.

The drawings submitted indicate that a 2m high block boundary wall will be retained and repaired where required.

7.4.2. The appellant submits that the details on the height of proposed rear boundary wall are unclear, and they are uncertain as to whether the existing wall is to be retained or new block wall is to be constructed. In addition, they have requested that a condition be attached requiring the retention of the existing wall. Failing that a condition requiring a new boundary be constructed to a height of 3m immediately following demolition is suggested.

7.4.3. I would concur with the appellants that the details in relation to the proposed boundary walls are unclear. I can confirm that the eastern boundary of the appeal site, which forms the rear garden boundaries of houses in Ballyroan Court, is heavily planted.

7.4.4. I am satisfied, given the nature and condition of the existing walls, that it is more appropriate they be retained. An appropriate condition can be attached.

7.5. **Foul Drainage**

7.5.1. Concern has been raised by the appellant that the proposed foul drainage does not comply with the standards set in the Greater Dublin Regional Code of Practice for Drainage Works. Section 6 of the Code of Practice requires a minimum separation distances of three metres to public sewers. This is a requirement of condition 2(4)(d) of the permission, but has not been provided for house no. 1.

7.5.2. I would note however that condition 2(4)(d) also refers to the requirements of Irish Water. As Irish Water have responsibility for foul drainage, and noting their reports on the application, I am satisfied that drainage arrangements can be agreed with Irish Water in conjunction with the planning authority.

7.5.3. I am satisfied that there is sufficient information on file to reach a conclusion on this issue and that subject to agreement with the planning authority the proposed development will substantially comply with the standards and that there is no obstacle, on this basis, to granting permission.

7.6. **Other Matters**

7.6.1. *Demolition / Rock Crushing*

Concern has been raised by the appellant that given the presence of hazardous waste material within the site including asbestos, that further dust and other airborne particulates from demolition and rock crushing on site would be generated. The appellant has requested a condition be included that expressly omits any rock crushing as part of the demolition phase of the proposed development.

I note the appellants concerns and recommend that an appropriate condition in relation to construction management can be attached.

7.6.2. *Construction Hours*

The appellant has requested that condition no. 12 be amended to match the times in condition no. 10 of Reg. Ref. SD09A/0127 of 8am start and 6pm finish. I have considered this and am satisfied that an appropriate condition in relation to construction management can be attached.

7.7. **Appropriate Assessment**

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

8.0 Recommendation

I recommend that planning permission should be granted subject to conditions for the reasons and considerations as set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the location of the site on residential zoned lands in the South Dublin County Development Plan 2016 – 2022, the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), and design and layout of the proposed development, it is considered that subject to compliance with conditions set out below, the proposed development would not seriously injure the residential amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 submitted the 12th April 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed 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. Details of the materials, colours and textures of all the external finishes to the proposed extension shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. The developer shall comply with the requirements of the planning authority

with respect to on-site parking, public lighting, signage, naming of development and road markings which shall be ascertained and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of traffic safety.

4. Prior to commencement of development, details of the following shall be submitted to, and agreed in writing with the planning authority:
 - (i) A hard landscaping plan with delineation and specification of site boundary details including the external finishes.
 - (ii) A soft landscaping plan incorporating native/indigenous species.

Reason: In the interest of visual amenity.

5. The existing boundary along the western boundary of the site with existing houses no. 4 to 8 Ballyroan Court shall be retained and repaired where required.

Reason: In the interest of visual and residential amenity.

6. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in

particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground within the site. Ducting shall be provided by the developer to facilitate the provisions of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

10. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion of roads, sewers, watermains, drains, car parks, open spaces and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be determined by An Bord Pleanala.

Reason: To ensure the satisfactory completion of the development.

11. The developer shall pay to the planning authority a financial contribution respect of public infrastructure and facilities benefitting 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, as amended. 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 developers or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Susan McHugh
Planning Inspectorate

4th September 2017