



An
Bord
Pleanála

Inspector's Report PL29S.248635

Development	Construction of two no. two bed apartments & one no. two bed penthouse all with associated balconies and terrace areas.
Location	Apartments 1-6 South Hill, Dartry, Dublin 6
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2475/17
Applicant(s)	Brookview Limited Greenview
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party V Grant
Appellant(s)	Patrick & Joanna O'Reilly
Observer(s)	None
Date of Site Inspection	4 th September 2017
Inspector	Rónán O'Connor

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1.0 Site Location and Description

- 1.1.1. The subject site is located to the north of Milltown Road, Dublin 6. It is a corner site on the south side of South Hill, Dartry that contains an existing 3 storey apartment development and associated on-site gated parking area, with a vehicular access from South Hill.
- 1.1.2. The site is split level with the rear access to the apartment block via an access bridge to the flat roof of the third floor and glazed entrance lift area. The front elevation and main pedestrian access is to the lower level off Milltown Road. There is planting and railings along this site frontage.
- 1.1.3. There is a considerable difference in ground levels with properties in South Hill located on the top of a steep bank facing Milltown Road. There are steps to the east of the site providing public pedestrian access from Milltown Road to the more elevated South Hill.
- 1.1.4. There is a bus stop in front of the site and on the opposite side of the road. The Milltown Luas stop is approximately 275m to the north east. The Dropping Well public house and associated parking area is located to the south-east of the site, on the opposite side of the Milltown Road. Temple Park and the River Dodder are located to the south on the opposite side of the Milltown Road.

2.0 Proposed Development

- 2.1. Construction of two no. two bed apartments & one no. two bed penthouse all with associated balconies and terrace areas. The units are being constructed over the existing 3 storey property with the 2 no. 2 bed units located on the proposed third floor and the larger penthouse unit located on the proposed fourth floor. Access to the units will be via the communal stairwell from ground floor and also from South Hill via the existing pedestrian link.
- 2.2. The proposal also includes increased balcony and terrace spaces for the existing units at ground, first and second floor levels.
- 2.3. It is proposed to re-configure the existing car park to provide a total of 10 car parking spaces (9 standard spaces and 1 accessible space).

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Grant permission. Conditions of note are as follows:

- Condition 3 (b) The proposed privacy screens serving balconies and terraces shall be finished using an opaque glazing only and shall be 2.0m in height.
- Condition 8 (f) Requirement to submit a Flood Risk Assessment.
- Condition 11 (a) Revised car parking arrangement showing 9 no. fully accessible car parking spaces.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer reflects the decision of the planning authority.

Points of note are as follows:

- Notes the previous permission for 2 units over the existing 3 storey building is currently the subject of a Judicial Review.
- Previous application was subject to lower height limitations of the previous CDP
- Current CDP allows for greater height
- Open space requirements are met
- Overall height considered acceptable
- Recommends a grant of permission subject to conditions

3.2.2. Other Technical Reports

Drainage – No objection subject to conditions

Roads and Traffic Planning – no objection subject to conditions

Waste Management – Recommend conditions

3.3. Prescribed Bodies

None

3.4. Third Party Observations

3.4.1. Three submissions objecting to the application were received by the LPA. These are summarised as follows:

- Impacts on privacy
- Previous permission under Judicial Review
- Development description is misleading – it suggests that the existing building is at ground level with South Hill - it is well above ground level
- A further 2 storeys on top of the existing structure will be out of character with the area
- Insufficient room for car parking
- Refuse arrangements too close to adjoining property
- Development is out of line with existing properties
- Vehicular access is creating a traffic hazard
- Not possible for emergency vehicles to access the apartment building
- Existing apartment building as built breached the permitted planning height by 1.3m resulting in the roof level being 1.3m above South Hill Ground level.
- Proposed development will appear from South Hill as a three storey building
- Recent decision by ABP have not looked favourably on much smaller proposed developments in South Hill – refs 1203/08 & 6576/06
- Lack of consultation from the developer
- Would lead to a loss of amenity
- Impact on aspect/daylight and sunlight
- Height and plan bear no relation to the existing building lines in South Hill
- Increase in on-street parking

- Residents of the apartment complex frequently park on footpath

4.0 Planning History

- 4.1.1. PL29S.245626 (2943/13) – Grant - Construction of 2 no. 2 bedroom duplex units with associated balcony and terrace. I note that this decision is currently the subject of Judicial Review proceedings.
- 4.1.2. 6435/05 Grant - Retention of modifications to existing parapets and access link bridge at roof level of existing 3 storey apartment building.
- 4.1.3. PL29S.117766 (2421/99) – Grant - Construction of 6 no. 2 bedroom apartments in a 3 storey development with roof garden and 9 no. parking spaces.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

- 5.1.1. The site is zoned Z1 'To protect, provide and improve residential amenities'. The southern part of the site facing Milltown Road is located within a zone of archaeological interest.
- 5.1.2. Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:
 - Policy SC25 – To promote high standards of design
 - Policy QH18 – To promote the provision of high-quality apartments
 - Section 16.2.1 Design Principles
 - Section 16.7 addresses building height
 - Section 16.10.1 Residential Quality Standards – Apartments – sets out standards to be achieved in new build apartments.

5.2. Natural Heritage Designations

5.2.1. None

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal, as submitted by the Third Party Appellants, are as follows:

- Planning Officer's report states that 'no objections are raised to this proposal' – Third Party Objections were either forgotten or ignored by the Planning Officer in the assessment of the development.
- No planning considerations, other than height, as raised by third party objectors were considered by the planning officer
- Planning issues, other than height, including building line, massing, overlooking, light, character of the building etc
- Errors in the planning officer's report
- Report is unsafe and the decision taken by DCC should be set aside
- Have raised substantial planning issues in relation to the current proposal and in relation to the earlier proposal
- LPA have not conducted any proper planning assessment of the current proposal - simply looked at the fact that under the current CDP a building of such a height may be permitted without considering other factors affecting owners and South Hill as a whole
- Parking, emergency access have also not been considered
- It appears from various planning reports and from Affidavit that LPA and ABP have been incorrect in their understanding of the building line
- It is understood by both that the apartment block is 'in line' with the current apartment building
- This is wrong and the apartment block is built approximately 8m in front of (or further south than) the rear building line of the existing houses in South Hill

- The existing building, and the proposed development, will be directly in front of a portion of the appellant's house
- Will have a negative impact on amenity of property, including impact on light
- This cannot have been properly considered due to the error made in respect of the building line
- Cannot accommodate current and proposed parking requirements
- Attached is Affidavit of Peter Nickels in relation to the current Judicial Review

6.2. Applicant Response

6.2.1. A response to the Third Party grounds of appeal has been submitted by Brock McClure, Planning & Development Consultants, on behalf of the applicant. This is summarised as follows:

- Issues raised by the third party are largely legal matters and do not raise any new planning issues for consideration
- LPA has fully addressed all matters relating to impact on third parties at planning application stage
- Balance has been struck with regard to providing for an appropriate development of an acceptable height, density and scale whilst protecting established levels of residential amenity in the area
- Will deliver much needed housing, on a public transport corridor

6.3. Planning Authority Response

6.3.1. None

6.4. Observations

6.4.1. None

6.5. Further Responses

6.5.1. None

7.0 Assessment

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

1. Principle of Development
2. Design
3. Neighbouring Residential Amenity
4. Parking
5. Other Matters
6. Appropriate Assessment

7.2. Principle of Development

7.2.1. The site is zoned Z1 'To protect, provide and improve residential amenities'. Residential is a permissible use within this zoning category. As such the proposal is acceptable in principle, subject to the detailed considerations below.

7.3. Design

7.3.1. The existing building is a three storey building with a lift projection and glazed canopy allowing pedestrian access at roof level. The site is split level with a significant height difference between the Milltown Road frontage and the car park area, accessed from South Hill. This results in the existing building having a limited visual impact when viewed from South Hill, with only the existing lift projection, the glazed lift entrance area, and part of the fencing surrounding the existing roof terrace visible over the existing boundary wall. The proposed additional two storeys will result in the visibility of the building being increased significantly with the two storey addition being of a similar height to the adjacent building at 39 South Hill.

7.3.2. In terms of building height, I note the subject site is within 500m of the Luas Green Line stop at Milltown and is therefore considered to be a 'Rail Hub' as defined within the current CDP. Heights of up to 24m (8 storeys residential) are permissible in such areas, subject to assessment against standards set out elsewhere in the CDP. Of significance is that the height limitations in areas such as this one have increased since the previous CDP.

- 7.3.3. The ridge level of the lift overrun proposed here is 16.53m with the fifth floor having a maximum ridge level of 15.38m. The ridge level of the adjoining property at No. 39 South Hill is 17.10m.
- 7.3.4. The current proposal is significantly below the maximum permissible height of 24m. I consider that the height proposed in this instance is appropriate in my view, given the scale of existing development at South Hill, and I do not consider that that will be any adverse impact on visual amenity when viewed from South Hill.
- 7.3.5. In terms of the visual impact as viewed from Milltown Road, I note that the site benefits from significant screening from existing planting on the Milltown Road frontage. However, the existing building is more visible as one approaches the site from the west along Milltown Road. Consequently, the proposed additional floors will be also visible when one views the appeal site from this approach, However, I do not consider the visual impact will be unacceptable, given the scale of existing adjoining development at South Hill when viewed from Milltown Road.
- 7.3.6. In relation to the detailed design, the design approach is a contemporary one with zinc cladding proposed for the fourth floor and glazed curtain walling proposed for the fifth floor. This design approach and palette of materials are appropriate, in my view, and the glazed curtain walling reduces the perceived bulk and mass of the proposal.

7.4. Neighbouring Residential Amenity

- 7.4.1. I note there are adjacent residences at 37 South Hill (appellant's property) and at 39 South Hill. The proposed additional floors will be set back 20m from the southern elevation of No. 37 South Hill. I do not consider that there will be a loss of daylight or sunlight to this property given the proposed setback. Furthermore, I do not consider that there will be a loss of outlook from this property. The windows to the proposed third and fourth floors, on the north elevation facing towards No. 37 South Hill are obscured and as a result, there will be no overlooking of No. 37.
- 7.4.2. No. 39 South Hill is set back 5 m to the west of the proposed development. There are windows and an outdoor terrace area to the rear of No. 39 South Hill, on the Milltown Road frontage. The proposed additional floors will be visible from the terrace areas to the rear of No. 39. However, the proposed development is set back

sufficiently so as not to be overly dominant or result in an overbearing form of development.

- 7.4.3. In relation to impact on privacy, I note there is an existing large terrace at roof level of the appeal property, that has views onto the terrace area of No. 39. It is proposed to provide the existing unit at ground floor with a larger terrace area and to provide the existing first and second floor units with larger balconies. The proposed units at third and fourth floor levels will also be provided with balconies. At ground and first floor levels, there is a large boundary wall which will prevent any overlooking. At second, third and fourth floors the proposed 2m high opaque privacy screening on the western and eastern flanks of the balconies will prevent overlooking of adjacent properties. As such, I do not consider that the level of overlooking of No. 39 South Hill would be greater than existing.
- 7.4.4. Overall, I do not consider the proposed development would impact negatively on the amenities of surrounding residential properties.

7.5. **Parking**

- 7.5.1. It is proposed to reconfigure the existing car park to provide a total of 10 car parking spaces (9 standard spaces and 1 disabled space). This exceeds the maximum current parking standards of 1 space per unit as set out in the CDP for developments within Area 2, as defined by Map J of the CDP. Should the Board be minded to grant a condition limiting the number of car parking spaces to 9 should be attached to any permission.

7.6. **Other Matters**

- 7.7. I note the appeal site is partly located within a zone of archaeological interest. However, given the nature of the proposal and the existing development on site, I do not consider that there will be any impact on existing archaeology.
- 7.8. I note the issue of road safety has been raised by objectors. I do not consider the proposed development would lead to a traffic hazard, given the existing vehicular access and given the relatively small increase in the number of vehicle movements resulting from the development.

7.9. The issue of refuse has also been raised by objectors. However, I do not consider the proposed location of the refuse bins would lead to any adverse impacts on residential amenity.

7.10. I note the condition imposed by the LPA requiring the submission of a Flood Risk Assessment. I do not consider this is necessary in this instance as the proposal will not result in increased risk of flooding, given the existing development on site, and subject to an appropriate condition in relation to surface water.

7.11. **Appropriate Assessment**

7.11.1. The site is neither in nor near to a Nature 2000 site. The closest SPA to the site is South Dublin Bay and River Tolka SPA which is 3.6km to the east of the site. The closest SAC is the South Dublin Bay SAC which is 3.6km to the east of the site.

7.11.2. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, a serviced inner-urban location, and the proximity to the nearest European Site, no Appropriate Assessment issues arise and it is not considered the proposed 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 permission is granted, for the reasons and considerations below.

9.0 **Reasons and Considerations**

Having regard to the zoning objective for the site, the pattern of development in the vicinity and the policies of the current Dublin City Development Plan 2016-2022, it is considered that the proposed development would not seriously injure the residential or visual amenities of the area. 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, 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. a) Prior to the commencement of development, revised plans showing a maximum of 9 car parking spaces shall be submitted to, and approved in writing, by the planning authority.

b) One on-site car parking space shall be permanently allocated to each residential unit and numbered as such. Car parking spaces shall not be sold, rented or otherwise sub-let or leased to other parties.

b) Cycle parking shall be secure, conveniently located, sheltered and well lit.

Reason: To ensure a satisfactory standard of development and in the interests of residential amenity.

3. 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.

4. 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.

5. 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.

6. 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, as amended. The contribution shall be paid prior to 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 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.

Rónán O'Connor
Planning Inspector

15th September 2017