



An
Bord
Pleanála

LOUGHSHINNY,
CO.DUBLIN.BALLYCOTTON,CORK.

Inspector's Report PL06D.248778

Development	Permission sought for demolition of 5 industrial/commercial buildings and construction of 27 no. residential units with all associated site works.
Location	Barn Elms Estate, 68 Churchtown Rd Upper, Churchtown, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D17A/0329
Applicant(s)	Grey Arch Limited
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First-v-Refusal
Appellant(s).	Grey Arch Limited
Observers	(1) Gerry Balfe Smyth

Date of Site Inspection

05th October 2017

Inspector

Colin McBride

1.0 Site Location and Description

1.1 The appeal site, which has a stated area of 0.76 hectares, is located to the south west of Rathfarnham, north east of Dundrum and Churchtown and on the southern side of Churchtown Road Upper. The site is occupied by an existing industrial estate (Barn Elms Estate), which consist of various sheds, offices, retail units and yard areas. There is an existing single-storey dwelling adjacent the public road and the vehicular entrance to the site. Existing boundaries on the site are defined by block walls. Adjoining uses include a car sales /showroom to the north west of the site, a commercial development to the west, existing two-storey dwellings that back onto the site to the south and south west (Whitebarn Road) and an existing detached dwelling to the east.

2.0 Proposed Development

2.1. Permission is sought for the demolition of 5 no. light industrial/commercial buildings (approximately 2,198sqm) and the construction of 27 no. dwellings comprising of 11 no. three-storey 4 bed houses, 4 no. three-storey 5 bed houses, 6 no. duplex units with terraces (comprising 3 no. two-storey 3 bed units over 2 no. 2 bed units), 1 no. two-storey apartment building with balconies (containing 2 no. 1 bed unit, 3 no. 2 bed units and 1 no. 3 bed unit, together with associated site works.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on three reasons...

1. Having regard to the inadequate provision of open space and resultant car dominated layout of the proposed development, it is considered that the proposed development would fail to create an adequate sense of place and would be contrary to Policy UD1 Urban Design Principles of the Dún Laoghaire-Rathdown County Council Development Plan 2016 - 2022. The

proposed development would therefore seriously injure residential amenity and be contrary to the proper planning and sustainable development of the area.

2.It is considered that the proposed development would result in an inefficient and unsustainable pattern of development on residentially zoned land in a location close to public transport links, employment and neighbourhood and district centres. The proposed development, at a density of thirty-eight (38) units per hectare, is not considered to be of a sufficiently high density as envisaged by the County Development Plan and Ministerial Guidelines at this location. The proposed development, therefore, materially contravenes Policy RES3 'Residential Density' of the Dun Laoghaire Rathdown County Development Plan, 2016-2022 and Section 5.8 of the Sustainable Residential Development in Urban Areas Guidelines (DoEHLG 2009). The proposed development is, therefore, contrary to the proper planning and sustainable development of the area.

3.It is the Policy of the Planning Authority as set out in the County Development Plan 2016 - 2022 that residential development is provided with adequate public and private open space in the interest of residential amenity. The proposed development is deficient in the quantum, location and quality of public open space. The proposed development would therefore materially contravene Policy OSR5: Public Open Space Standards, and not be in accordance with the Section 8.2.8.2 (i) Residential/Housing Developments, and Section 8.2.8.3 of the County Development Plan, and would result in a substandard level of residential amenity for future residents and set a poor precedent. It would therefore be contrary to the proper planning and sustainable development of the area. Note: It should be noted that fundamental issues exist in relation to the proposal to connect to an already deficient public foul water system. In this regard, the applicant is requested to consult with Irish Water prior to the submission of any future planning

application. Attention is also drawn to An Bord Peanala decision PL06D.247612 and reason number 02 of the Board direction.

3.1

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Local Authority
reports

- 3.1.1. Drainage Planning (16/05/17): Further information required including details regarding attenuation and surface water drainage.
- 3.1.2. Irish Water (24/05/17): Further information required foul water network.
- 3.1.3. Parks & Landscape (25/05/17): Refusal recommended due to deficiencies in the provision of public open space.
- 3.1.4. Planning Report (31/05/17): Issues of concern included the density and provision of public open space. Refusal was recommended based on the reasons outlined above.

4.0 Planning History

- 4.1 No planning history.

5.0 Policy Context

5.1. Development Plan

- 5.1.1 The relevant development plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned Objective A with a stated objective 'to protect and/or improve residential amenity'.

- 5.1.2 Policy RES3: Residential Density (Section 2.1.3.3)

It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential

amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:

- Sustainable Residential Development in Urban Areas (DoEHLG 2009)
- Urban Design Manual - A Best Practice Guide (DoEHLG 2009)
- Quality Housing for Sustainable Communities (DoEHLG 2007)
- Irish Design Manual for Urban Roads and Streets (DTTaS and DoECLG, 2013)
- National Climate Change Adaption Framework-Building Resilience to Climate Change (DoECLG 2013).

5.1.3 Under Section 2.1.3.3 on Residential Density the following is also noted...

Where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged. As a general rule the minimum default density for new residential developments in the County (excluding lands on zoning Objectives 'GB', 'G' and 'B') shall be 35 units per hectare. This density may not be appropriate in all instances, but will serve as a general guidance rule, particularly in relation to 'greenfield' sites or larger 'A' zoned areas.

6.0 The Appeal

6.1 Grounds of appeal

6.1.1 A first party appeal has been lodged by RPS on behalf of the applicant, Grey Arch Limited. The grounds of appeal are as follows...

- The proposal was design to achieve the minimum density of 35 units per hectare balanced with protecting the residential amenities of adjoining properties. It is noted that the site is just outside the catchment area where higher density of 50 units per hectares would be required (just over 1km from Dundrum Town Centre). It is considered that the density proposed would be acceptable in the context of Development Plan policy and National Guidance.
- It is noted that the configuration of the site makes it difficult to relocate open space and still provide a density of at least 35 units per hectare.
- It is noted that the level of public open space is marginally less than required under Development Plan policy and that policy allows for such where the proposal is in close proximity to a public park, it is noted in this case there are public parks with 700 and 800m of the site. It is also noted that all units are provided with generous levels of private open space.
- It is also noted that the level of public open space is in keeping with the recommendation of the Sustainable Residential Development in Urban Development Urban Areas-Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual-A Best Practise Guide.
- It is noted that two of the refusal reasons note the proposal is a material contravention of Development Plan policy. It is noted that in regards to Section 37(b) of the Planning and Development Act that the Board may grant permission where “there are conflicting objectives in the development plan or objectives that are not clearly stated insofar as the development is concerned”. It is noted that there are conflicting objectives within the Development Plan with reference to development on this site specifically.
- It is noted that the issue of deficiency in the foul sewer was raised by the Local Authority. The appellant has submitted a letter from Irish Water that appears to include provisions to allow for connection subject to a number of requirements.

6.2 Responses

6.2.1 Response by Dun Laoghaire Rathdown County Council.

- It is noted that the grounds of appeal do not raise any new matters, which would justify a change in attitude to the proposed development.

6.3 Observations:

6.3.1 An observation has been received from Gerry Balfe Smyth, 48 Whitebarn Road, Churchtown, Dublin 14.

- The observer's dwelling backs onto the site (south eastern boundary). It is noted that the proposal would have a significant impact in terms of loss of privacy and light in the back garden and to rear of his dwelling. Such would be detrimental to the observer and the adjoining neighbours residential amenities and devalue property.

6.4 Submissions to Local Authority:

6.4.1 14 submissions were received by the Local Authority and the issues raised be summarised as follows...

- Height, scale and proximity of the proposal in the context of the amenities of adjoining properties. Overlooking and overshadowing, boundary treatment, traffic impact and lack of visitor parking and the level of open space.

7.0 Assessment

7.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development

Density/development strategy

Development control standards

Design/scale/pattern of development/visual/residential amenity

Traffic impact

Drainage

Appropriate Assessment

Other Issues

7.2 **Principle of the proposed development:**

7.2.1 The relevant plan is the Dun Laoghaire Rathdown County Council Development Plan 2016-2022. The site is zoned 'Objective A' with a stated objective 'to protect and or improve residential amenity'. The proposal is for residential use and is compliant with land use policy. The site is currently in commercial use, which is a historic non compatible use within the zoning objective. The majority of the existing development in the vicinity is suburban style housing. The proposal entails an increased density and a use more in keeping with zoning policy. I would consider the principle of the proposed development to be acceptable subject to the proposal being satisfactory in the context of its impact upon the amenities of adjoining properties, visual amenity, and traffic safety and convenience.

7.3 Density/development strategy:

7.3.1 The proposal entails the demolition of an existing commercial development on site and the construction of 27 no. residential units on a site of 0.76 hectares. There is an existing single-storey dwelling on site, which is being retained giving a total of 28 units on the site. This gives a density of 37 units per hectares (the assessment states density is 38 units per hectares, which appear to be based on a net site area excluding the existing dwelling on site). This is above the recommended minimum density for new residential development in the County Development Plan of 35 units per hectare and below the recommended minimum density for new residential developments in proximity to public transport corridors, of 50 units per hectares. Policy RES3 (Section 2.1.3.3) of the Dun Laoghaire Rathdown County Development Plan 2016-2022 notes that “it is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development”. It is noted that “as a general rule the minimum default density for new residential development in the County (excluding lands on zoning Objective ‘GB’, ‘G’ and ‘B’) shall be 35 units per hectares. This density might not be appropriate in all instances, but will serve as a general guidance, particularly in relation to ‘greenfield’ sites or larger ‘A’ zoned areas”.

7.3.2 It is also noted under Section 2.1.3.3 on Residential Density that “where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged”. The policy is linked to the recommendations of the Sustainable Residential Development in Urban Areas (DoEHLG 2009) which notes that following in regards to Public Transport Corridors (Section 5.8) ...

“Walking distances from public transport nodes (e.g. stations / halts /bus stops) should be used in defining such corridors. It is recommended that increased densities should be promoted within 500 metres walking distance¹⁸ of a bus stop, or within 1km of a light rail stop or a rail station. The capacity of public transport (e.g.

the number of train services during peak hours) should also be taken into consideration in considering appropriate densities. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Minimum densities should be specified in local area plans, and maximum (rather than minimum) parking standards should reflect proximity to public transport facilities”.

7.3.3 Permission was refused on the basis that the density is too low due its proximity to public transport facilities in the form of the Luas line (less than 50 units per hectare. The density of the proposed development is 37 units per hectares (38 when the existing dwelling is discounted) and is in accordance with the minimum standard advocated under Development Plan policy for residentially zoned lands. The appeal site is approximately 1.5km from the Dundrum Luas stop (south east), which would equate approximately a 20-minute walk. Based on both the wording of Development Plan policy, the site is outside of the catchment area within which a density of at least 50 units per hectares is encouraged (1km). On this basis I would consider that the proposal is not a material contravention of Development Plan policy. I would however question the overall density, which is too close to minimum allowable over the whole county, when is in walkable distance of a high quality public transport corridor and a district centre in the form of Dundrum Town Centre. I would also consider that there is scope on site to provide a development of higher density, while at the same time having adequate regard to adjoining amenities. In particular, there is significant scope for increased density along the road frontage, with the proposal entailing the retention of a single-storey dwelling and the provision of a small two-storey apartment block. I would this is an inefficient use of the land and there is scope for higher densities on this site. I would consider that notwithstanding the residential zoning designation of the site, that the proposed residential development, which is located in close proximity to a major transport corridor being within 1.5 km

walk of a Dundrum Luas Stop and Dundrum Town Centre itself, is at a density which represents an unsustainable use of urban land with considerable scope for increased density on site in particular along the road frontage. The proposal would be contrary Development Plan policy set down under Objective RES3 and the density requirements in the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities, 2009. The proposed development would therefore be contrary the policy objectives of the development plan and national policy and would, therefore, be contrary to the proper planning and sustainable development of the area.

7.4 Development control standards:

7.4.1 In relation to residential development the issues concerning development control relate to the provision of public/private open space and car parking. For the purposes of general development control objectives, the proposal entails the provision of a mix of units including 15 no. dwellings and 12 no. apartment units. Under Section 8.2.8.4 of the County Development Plan the minimum requirement for dwellings with 3 bedrooms is 60sqm while for 4 bedrooms or more is 75sqm. The new dwellings back onto the western, south western, southern and eastern boundaries of the site with rear gardens ranging from 75-154 sqm provided in all cases (four and five bed units). In the case of the apartments the required standard is under Table 8.2.5 of County Development Plan (6sqm per one bed, 8sqm per two bed, 10 sqm per three bed, 12sqm four bed plus). The apartments are in two blocks, a two-storey block (6 units) along the public road and three-storey block with duplex units (6 units). In all case private open space provision is compliant with Development Plan standards for apartment units.

7.4.2 In regards to public open space, under section 8.2.8.2 of the County Development Plan it is noted that “for all developments with a residential component – 5+ units - the requirement of 15 sq.m- 20 sq.m. of open space per person shall apply based on the number of residential/housing units. For calculation purposes, open space requirements shall be based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms”. It is also noted that irrespective of

the circumstances outlined under Section 8.2.8.2 including relaxed standards due proximity to existing park facilities and financial contributions in lieu of public open space “the default minimum 10% open space requirement must be provided on site”. In this case there are four area of public open space distributed throughout the site with the largest located adjacent the entrance and road frontage of the site. The total area of public open space is 1,039sqm. The total site area is 0.76 hectares (7,600sqm) and the net site area (excluding Barn Elms) is 7,090sqm. The requirement under Development Plan policy is 1,178sqm (based on bed spaces), however a default minimum of 10% is required. In this case the level of public open space is above 10% of the total site area. The appellants also note that the site is in close proximity to existing public parks in the form Loreto Park 700m to the south and Braemor Park, 800m to the north.

7.4.3 I would consider that the level of public open space on site is not significantly short of the required standard and is well above the default minimum of 10%. I do consider that there is scope for favourable consideration of the proposal on the basis that the level of shortfall is not significant and that all proposed units are well served in regards to private open space as well as existing public amenity space in the vicinity. I would also consider that the somewhat irregular shape of the site would make it difficult to increase the level of public open space and maintain the required density standards, which in itself is one of aspects that the proposal has been adjudged to be deficient in terms of. Having regard to such I would consider that the proposal would be satisfactory in the context of both the provision of public and private open space.

7.4.4 In regards to car parking, the proposal provides off-street car parking for two car spaces per dwelling. Under Table 8.2.3 of the County Development Plan the requirement for residential development is two spaces per 3 bed dwelling or more, 1 space per 1 bed apartment, 1.5 per 2 bed apartment and 2 spaces per 3 bed unit plus (depending on design and location). There are 46 spaces provided on site (parking is being retained within the curtilage of Barn Elms). The requirement based on Development Plan requirements is 49 with the development 3 spaces short. The majority of the spaces are communal in nature with only 9 of the dwellings

appearing to have dedicated spaces. Although there is a shortfall, such is minor in level and there is a question whether an urban development such as this with relatively good public transport infrastructure in a reasonable distance as well as being located relatively close proximity to Dundrum Town Centre, requires such a level of parking. I would consider that the level provided is more than sufficient taken in conjunction with its location relative to nearby town centres and public transport linkages.

7.4.5 I would consider that the proposed development should be viewed favourably in the context of development control standards and would provide for a development of satisfactory standard in relation to the provision of private and public open space, and car parking.

7.5 Design/scale/pattern of development/visual/residential amenity:

7.5.1 The proposal is split into a number of blocks with the existing single-storey dwelling (Barn Elms) adjacent the access point being retained. Adjacent the existing dwelling and along the road frontage of the site a two-storey apartment block is to be provided. The remainder of the units on site are three-storey units with the second floor predominantly within the roof space. Seven of the dwelling units (units 1-7) are to back onto the western boundary of the site, six of dwellings back onto the southern and south western boundary (units 8-13), the six duplex units back onto the eastern boundary and units 14 and 15 back onto the south and eastern boundary.

7.5.2 I would consider that the overall visual impact of the proposal to be acceptable at this location. The design and scale of the dwellings although three-storeys would not be out of keeping at this location, which is an established suburban residential area. I would consider that there was greater scope for more development along the road frontage, however the applicant has chosen to retain the existing dwelling. Notwithstanding such the design of the development is of an acceptable standard

that would have no detrimental impact on the visual amenities of the area. I would consider that the development is not of significant architectural merit and more thought could have gone into the development along the road frontage.

Notwithstanding such, I would consider that the overall visual impact of the proposal would be acceptable.

7.5.3 To the west of the site is a commercial development and the proposal for dwellings backing on to this boundary would not impact on the amenities of the adjoining property. In addition, the dwellings maintain a more than 11m deep separation between their rear elevations and the western boundary, which would be satisfactory in terms of existing amenities and also in the context of future possible development on the adjoining site. Units 8-13 back onto the southern and south western boundary and are back to back with existing two-storey dwellings fronting Whitebarn Road. It is notable that the submissions to the Local Authority and the observation submitted in relation this appeal, raise concerns regarding the impact of the proposal on adjoining residential amenities through overlooking and loss of light. I would note that the proposal is a significant change from existing low profile commercial development to three-storey residential units, I would however consider that the overall design, scale and layout would not be out of character in an established residential area such as this and the level of separation between the proposed dwelling units and existing adjoining units is generous with existing dwellings characterised by very deep back gardens. In this case separation distances are more than sufficient to protect the amenities of adjoining properties. This is also the case for all units backing onto the boundaries of the site to the west, south, south east and south west. There are a few instances where the proposed units are located close to the boundary of the site with the gable of no.s 7 and 14 being the units in question. I would consider that this a pattern of development would also not be out of keeping in a residential area such as this and that the level of separation is sufficient given the depth of the rear gardens serving the dwellings along Whitebarn Road. In addition, I would note that existing boundary treatment, which consist of high block walls is of a good standard and is to be retained. I would consider that the overall design, scale and layout of the proposal has adequate regard to the residential amenities of adjoining properties.

7.5.4 The assessment of the proposal by the Local Authority is critical of overall design and layout in regards to the policies on Urban Design in the County Development Plan and the recommendations under the accompanying publications, Sustainable Residential Development in Urban Areas (DoEHLG 2009) and the Urban Design Manual - A Best Practice Guide (DoEHLG 2009). The criticism relates to the quality of design in terms of sense of place, distinctiveness and other characteristics it is considered are lacking in the overall design. As noted earlier, the overall design and layout is not of exceptional architectural merit, however it is of a reasonable standard and would not be at odds with the recommendations of the aforementioned standards. I would consider that the proposal is of an acceptable standard in terms of urban design and layout.

7.6 Traffic Impact:

7.6.1 The proposed entails a new vehicular entrance in the same location as the existing vehicular entrance off Churchtown Road Upper. The scheme is located within the urban speed limit zone and would provide for the required visibility standards (49m) set down under the Design Manual for Urban Roads and Streets. The proposal replaces an existing commercial use that would have generated a significant level of traffic including some HGV's with the proposal replacing such with residential traffic in keeping with the majority of established uses on adjoining sites. I would consider that the layout of the proposed entrance is satisfactory in regards to available visibility and that the road network would be of sufficient capacity to cater for the level of traffic likely to be generated at this location.

7.6.2 The section on Development Control standards outline the fact that the proposal is just shy (3 spaces) of conforming to minimum standard in regards to off-street car parking. As noted in the earlier section, I would consider that the level of car parking proposed is sufficient and that consideration should be given to the fact that the site is within a reasonable proximity of an existing public transport corridor (Luas line) and established centres such as Dundrum Town Centre.

7.7 Drainage:

7.7.1 Although not a reason for refusal, there is indication in the Drainage Planning and Irish water reports that there are deficiencies in the drainage infrastructure in the area with both recommending a request for further information. The applicant/appellant has submitted a letter from Irish Water that indicates measures required to overcome issues regarding drainage. I would note that the site is in an established residential area with existing drainage infrastructure and is zoned for development. Permission was refused in relation to drainage issues with indications that the drainage issues can be addressed. In the event of grant of permission, I would recommend appropriate conditions requiring drainage to be in accordance with requirements of the Local Authority.

7.8 Appropriate Assessment:

7.8.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, 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 projects on a European site.

7.9 Other Issues:

7.9.1 Permission was refused on the basis that the proposal is a material contravention of Development Policy relating to residential density and the provision of public open space. Under Section 37(2)(b) and 37(2)(c) of the Planning and Development Act, 2000 (as amended) the following is noted...

(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that—

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28 , policy directives under section 29 , the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28 , policy directives under section 29 , the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(c) Where the Board grants a permission in accordance with paragraph (b), the Board shall, in addition to the requirements of section 34 (10), indicate in its decision the main reasons and considerations for contravening materially the development plan.

7.9.2 As noted in earlier sections of this report, I would not consider that the proposal constitutes a material contravention of stated Development Plan policy either in regards to density or public space. I would however note that the proposal has been refuse don such basis and the Board should be aware of the provisions of Section 37(2)(b) and 37(2)(c) in event that a grant of permission is being considered.

8.0 Recommendation

8.1 I recommend refusal based on the following reasons.

9.0 Reason and Considerations

9.1

1. Notwithstanding the residential zoning designation of the site, it is considered that the proposed residential development, which is located in close proximity to a major transport corridor being within 1.5 km walk of a Dundrum Luas Stop and Dundrum Town Centre itself, is at a density which represents an unsustainable use of urban land with considerable scope for increased density on site in particular along the road frontage. The proposal would be contrary Development Plan policy set down under Objective RES3 and the density requirements in the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities, 2009. The proposed development would therefore be contrary the policy objectives of the development plan and national policy and would, therefore, be contrary to the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

17th October 2017