



An  
Bord  
Pleanála

## Inspector's Report PL 06D.248819

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<b>Development</b>	Demolition of existing house and construction of 7 no. houses
<b>Location</b>	'Sancta Maria', Stradbrook Road, Blackrock, County Dublin
<b>Planning Authority</b>	Dún Laoghaire-Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D16A/0959
<b>Applicant(s)</b>	Marvel Properties Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Gabriel Ennis & Mary Yeo Ray Phillips
<b>Observer(s)</b>	Henry Rice Mary McLaughlin Beck Alf & Tara Smyth

**Date of Site Inspection**

25<sup>th</sup> September, 2017

**Inspector**

Kevin Moore

## 1.0 Site Location and Description

- 1.1. 'Sancta Maria' is a detached, two-storey house with outbuildings at the northern end of a site of 0.2058 hectares. The site has frontage onto Stradbrook Road to the south and Shandon Park at the site's north-eastern end. The site slopes from north to south. It has vehicular access onto Stradbrook Road and pedestrian access onto Shandon Park. There is dense vegetation along the site's perimeter and the site is bounded by walls. The site is flanked by existing housing, dormer and single-storey housing to the north and two-storey housing to the south.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise the demolition of an existing house and associated outbuildings and the construction of one detached two-storey, four-bedroom house at the southern end of the site with access onto Stradbrook Road and 6 no. terraced two and a half storey, four bedroom houses with a single access onto Shandon Park to the north-east. The development would accommodate parking for 14 cars, bicycle parking and bin storage.
- 2.2. Details submitted with the application included a traffic and transport review, energy and renewables advice for Part L compliance, a preliminary health and safety plan, civil engineering specifications, an arboricultural assessment, a landscape design report, a screening report for Appropriate Assessment, and a planning report.

## 3.0 Planning Authority Decision

### 3.1. Decision

On 15<sup>th</sup> June, 2017, Dún Laoghaire-Rathdown County Council decided to grant permission for the development subject to 28 conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planner noted the observations made, departmental reports received, and development plan provisions. The principle of the development on the site was

considered acceptable. The demolition of the existing house and its replacement with 7 houses was seen to be a significant planning gain in terms of density. The proposed detached house was considered to be well designed and would not cause significant overlooking or overshadowing of adjoining properties. Noting that the private open space provision for three of the proposed terrace houses fall short of development plan requirements, it was considered reasonable to relax the quantum of space due to the quality of open space being provided. The terraced houses were seen to be well designed and it was concluded they would not have a significant impact on adjoining residential properties. It was noted that a contribution in lieu of public open space was recommended by the Parks service. The development was seen to provide an acceptable mix of unit types, acceptable building heights and scale of development, and boundary treatment. The proposed density was viewed as acceptable given site constraints. Further to residents' concerns relating to proposed planting along boundaries and bin storage, it was recommended that the applicant be requested to replace tree types and relocate the bin store. A request for further information was recommended.

#### 3.2.2. Other Technical Reports

The Drainage Engineer requested further details on surface water proposals.

The Transportation Planning Engineer requested further information on car, bicycle and motorcycle parking, on vehicle access and manoeuvre arrangements, and on underground services.

The Parks Executive expressed some concerns in relation to lack of open space provision and landscape design proposals. A schedule of conditions was recommended.

#### 3.3. **Prescribed Bodies**

Irish Water had no objection to the proposal.

#### 3.4. **Third Party Observations**

The planning authority received submissions on the proposal from Ray Phillips, Gabriel Ennis and Mary Yeo, Henry Rice, Gerry Hughes and Emer Byrne, Joseph C.

Hogan, Mary McLaughlin Beck, Alf and Tara Smyth, Nuala Waldron and Francis Saunders, and Shandon Park Residents. The grounds of the appeal and observations submitted to the Board reflect the range of concerns raised.

A request for further information issued by the planning authority on 21<sup>st</sup> February, 2017 relating to proposed finishes, bin storage, tree planting, roads and transportation issues, and surface water drainage. A response to the request was received from the applicant on 19<sup>th</sup> May, 2017.

Following this, the reports to the planning authority were as follows:

The Drainage Engineer had no objection subject to conditions.

The Transportation Planning Engineer had no objection subject to conditions.

The Planner considered the responses to the further information request were acceptable and recommended that permission be granted subject to conditions.

#### **4.0 Planning History**

I have no record of any previous planning application or appeal relating to the site.

#### **5.0 Policy Context**

##### **5.1. Dún Laoghaire-Rathdown County Development Plan 2016-2022**

Zoning

The site is zoned 'A' with the objective "To protect and/or improve residential amenity.

Residential Development

Policies include:

*Policy RES3: Residential Density*

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 Adaptation Framework - Building Resilience to Climate Change’ (DoECLG, 2013).

The Plan further states:

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.

#### Demolition and Replacement Dwellings

Demolition of an existing house in single occupancy and replacement with multiple new build units will not be considered simply on the grounds of replacement numbers only, but will be weighed against other factors. Better alternatives to

comprehensive demolition of, for example, a distinctive detached dwelling and its landscaped gardens, may be to construct structures around the established dwelling and seek to retain characteristic site elements.

## **6.0 The Appeals**

### **6.1. Grounds of Appeal by Gabriel Ennis and Mary Yeo**

The appellants reside at No. 4 Shandon Park. The grounds of appeal may be summarised as follows:

- The proposed line of trees flanking the appellants' boundary is totally unacceptable as it would block daylight and sunlight to windows in the house that have had uninterrupted daylight for many years.
- A substantial amount of light will already be lost by the terrace of houses without the line of trees.
- A more suitable solution would be to plant a hedge along the boundary that could be maintained to a height of 2-2.5 metres.

### **6.2. Grounds of Appeal by Ray Phillips**

The appellant resides at 'Karnak', Stradbroke Road. The grounds of appeal may be summarised as follows:

- The proposal is over-intensive for a small infill site. It has no regard for preserving existing amenities due to the scale of the buildings.
- The detached house is excessive, overbearing and overshadowing. The house should be single storey. If permitted as a two-storey house, it should be reduced in area and the first floor living area relocated to the rear. An attached illustration indicates how the proposed house would negatively impact on 'Karnak' by way of overshadowing and affecting sunlight.

- Proposed surface water drainage should be relocated to within the driveway of the house to avoid damage to boundary walls and damage from roots of proposed landscaping.
- All boundary landscaping should be carried out in the first growing season post commencement of construction to protect privacy.
- The proposed self-supported timber boundary fence should have a double-sided boarded finish and should be pressure-treated.

### 6.3. Applicant Response

The applicant's response to the appeals may be synthesised as follows:

#### *Trees*

- The applicant would be satisfied to replace the proposed trees along the boundary with No. 4 Shandon Park with a lower lying and smaller option such as *Fagus sylvatica*.

#### *Over-intensification*

- The scheme is a suitable form of development for the infill site that is zoned residential. The existing neighbourhood character is typically a mix of housing types.
- A number of alternative concept options were considered and the final scheme was influenced by pre-planning advice from the planning authority.
- The height of the housing is in keeping with the Development Plan's Building Height Strategy.
- The proposal has duly considered the scale, design and height of adjoining buildings and an appropriate transition in building heights is proposed in the case of House No. 7 and 'Karnak'.
- The proposed density of development is suitable in this case and was chosen having regard to planning policy and pre-planning advice.

### *Overshadowing by House No. 7*

- An overshadowing analysis undertaken in response to the appeal notes that the impact of the development on neighbouring gardens is confined to limited areas and times of day and would meet BRE Guidelines. It is submitted that the majority of overshadowing caused at 'Karnak' is due to the existing house itself and that this would continue to be the case if the scheme was permitted.

### *Drainage*

- The proposed drainage layout is adjusted to address concerns raised and includes relocating a manhole to the front of the proposed driveway of House 7 and relocation of storm and foul water pipelines to meet the appellant's wishes. The latter addresses potential damage to boundary walls and tree root structures.
- Pipeline cover complies with relevant regulations.

### *Timing of Landscaping*

- The applicant is happy to complete all boundary planting in the first growing season post completion of construction works or prior to this if space allows for it on the confined site.

### *Timber Fence Treatment*

- The applicant is happy to provide a double-sided, pressure-treated fence.

Details submitted with the response include shadow diagrams and analysis, drainage drawings and a commentary, and a landscape note.

## **6.4. Planning Authority Response**

The planning authority submitted that the grounds of appeal did not raise any matter that would justify a change of attitude to the proposed development.

## **6.5. Observations**

Henry Rice, residing in 'Marjan' adjoining 'Karnak', raises concerns in relation to over-intensification of development and requested landscaping be undertaken in the

first growing season following commencement of construction and that timber boundary fences be substantial and of highest quality.

Mary McLaughlin Beck expressed concern about the proposed density of development, the entrance onto Shandon Park, and the height of trees along the boundary with Gabriel Ennis and Mary Yeo's property.

Alf and Tara Smyth, No. 6 Montpelier Manor, raised concerns relating to overlooking, form/scale/massing/density/design/separation distances/open space and considered the development did not meet the land use zoning objective.

## 6.6. Further Responses

In response to the applicant's response to the third party appeals, the appellant, Ray Phillips, referred to the need for protection of sewers to avoid structural issues and deformation of existing mains. Reference was also made to the effect of devaluation of property and the need for adequate compensation or a fair means of redress.

In response to the applicant's response to appeals, the planning authority submitted that no matters were raised which would justify a change of attitude to the proposed development.

## 7.0 Assessment

### 7.1. Introduction

7.1.1 I consider the principal planning issues relating to the appeals are impact on residential amenity and the development's compliance with Development Plan provisions.

### 7.2 Impact on Residential Amenity

7.2.1 I note the applicant's response to the third party appeals and it is my submission that many of the issues raised in the appeals have been sufficiently addressed therein. The alternative provisions being made are appropriate to address third party concerns as follows:

- The proposed change to the tree line along the boundary with No. 4 Shandon Park, in the form of a hedge such as *Fagus sylvatica*, will meet with the appellants' wish for a hedgerow maintained up to a height of 2.5m. This should address particular concerns relating to loss of sunlight and daylight to their property and will remain a suitable landscaping provision to meet amenity needs.
- Drainage measures have been altered to specifically address the concerns at the southern end of the site, including relocation of a manhole and storm and surface water pipelines that will seek to address any potential damage to boundary walls and tree roots. Agreement with the planning authority on drainage prior to the commencement of the development should facilitate such minor alterations to meet third party concerns.
- The applicant has committed to complete all boundary planting in the first growing season post completion of construction works or prior to this if it can be achieved. A comprehensive landscaping scheme to be agreed with the planning authority prior to construction commencement should address appropriate timelines for planting.
- The applicant is satisfied to provide double-sided, pressure-treated fencing as requested.

7.2.2 In terms of affecting adjoining properties by way of overlooking, overshadowing, and overbearing impact, my considerations are as follows:

7.2.3 With regard to the proposed six terraced houses:

- I note the layout and siting of these units. The separation distances provided, in excess of 22 metres, between the proposed houses and existing houses in the vicinity to the north and south would ensure that there would be no adverse impact arising from overlooking.
- Arising again from the siting, layout, and separation distances, it is evident that there would be no notable concerns relating to overshadowing from these proposed terraced houses.
- In considering overbearing impact from the terraced houses, I note the separation distances between proposed and existing dwellings and the

relationship of the proposed units with 'Achill', a single-storey house to the east of the site. The set back of 'Achill' and the separation distance of over 10 metres, together with the provision of planting proposed within the development site, should ensure that the new houses would not culminate in any significant overbearing impact for the occupants of the existing house.

- In considering the effects of these houses on the proposed house to the south, I acknowledge that the site slopes from north to south and that there is a difference in proposed building heights. The proposed development, however, is laid out to provide adequate separation distances between opposing windows at first floor level and eliminates concerns about overlooking. No issues arise with regard to overshadowing or overbearing impacts.

#### 7.2.4 With regard to House 7 at the southern end of the site:

- I note that the existing houses flanking the appeal site are two-storey houses.
- I further note existing separation distances between gables of existing properties, for example some 3.5 metres between the appellant Ray Phillips' two-storey house and the observer Henry Rice's two-storey house, which adjoins a three storey apartment block. The proposed two-storey detached house provides some 3 metre separation between its eastern gable with the western gable of 'Karnak' and is considered reasonable in this urban location. Furthermore, I note the layout provides for circulation around the proposed building on both sides, ensuring there is an adequate buffer between the proposed building and its flank boundaries. The proposed development, in this context, could not be seen to produce any significant overbearing impact on adjoining properties due to proximity. It clearly is not excessive in building height terms or in terms of massing and bulk in its context and could reasonably be considered a suitable infill house.
- I also note the design, layout, building height, and provision of fenestration of House 7. The proposed development would not result in any overlooking of adjoining established properties.
- Having regard to orientation, siting and layout, I am satisfied to conclude that the development is not likely to result in any significant overshadowing of the

neighbouring appellant's property or of other properties in the vicinity. The applicant's shadow analysis adequately demonstrates the minimal impact that would result.

7.2.5 With due regard to the above, I consider that it is reasonable to conclude that the proposed development would not result in any significant adverse impacts on residential amenity.

### 7.3 Compliance with the Provisions of Dún Laoghaire-Rathdown County Development Plan

#### *Zoning*

7.3.1 The site of the proposed development is zoned 'A' with the objective "to protect and/or improve residential amenity." Residential development is permitted in principle within this zone and the proposed use is clearly compliant with the zoning provision.

#### *Density*

7.3.2 With regard to the density of the proposed development, I note the third party and observer concerns about the high density of the proposed development. The Development Plan expressly sets out density requirements to be met for new residential development. As a general rule the minimum default density for new residential developments is 35 units per hectare. 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 are to be encouraged. The site of the proposed development falls within the catchment of a QBC and a rail station and could reasonably be viewed as one that demands a higher density of development. The development as proposed falls just below the minimum density of 35 units per hectare. Having regard to this, it is determined that the proposed density of development could not reasonably be viewed as being excessive. While falling below the minimum default density, I acknowledge Policy RES3 of the Plan which seeks to ensure there is a balance between the reasonable

protection of existing residential amenities and the established character of areas. To this end, it is reasonable to acknowledge the built-up nature of development around this site, the configuration of the site itself and the restricted opportunity to seek higher density development by increasing building heights and increasing the footprint of new development on the site, while also seeking to adequately protect established residential amenities. With due regard to this, I am satisfied to conclude that the density of development proposed can be considered acceptable on the site in its present context.

### *Infill Development*

7.3.3 The current Development Plan also addresses the requirements to be met for infill development. Such development is required to respect the height and massing of existing residential units and to retain the physical character of the area. The proposed development is considered suitable in terms of its compatibility with established development in the vicinity. There is a wide range of building types, heights, designs and forms in the immediate vicinity of the site, inclusive of higher apartment blocks in Shandon Park to the north and immediately adjoining the appellant Henry Rice's house, 'Marjan' on Stradbrook Road. The proposed mix of house types and the varying design and scale would not be out of character in the area. I am satisfied to conclude that the proposed development would meet with the requirements for infill housing in accordance with the Plan provisions. Specifically, I note the scale, massing, form and building heights of established residential properties flanking the appeal site at the location of proposed House 7. Having regard to the prevailing two and three storey nature of development along Stradbrook Road, it is my submission that the proposed two-storey unit would not be out of character at this location. Having regard to the scale of existing developments fronting onto Stradbrook Road and the variety of newer and older house types, I do not consider that the proposed two-storey detached unit would be incongruent in itself. Considering its set back and potential for suitable planting and associated landscaping, it should not result in the development causing significant adverse visual impacts on the amenities of the area.

### *Public Open Space*

7.3.4 The Development Plan requires public open space to be provided for residential development with 5 or more units. I note the lack of this space within the site and the planning authority's requirement for a development contribution to be made in lieu. The provisions of the Development Plan (Section 8.2.8.2) allow for financial contributions in lieu of open space and this is considered acceptable in this instance to ensure a reasonable density of development can be achieved on the site and given the range of parklands available within a short walking distance of this site.

### *Private Open Space*

7.3.5 I note the Development Plan requires minimum private open space to be provided at a rate of 75 square metres for four bedroom houses. The Plan allows for a relaxation in the quantum of private open space where there is an innovative design response (Section 8.2.8.4). Private open space would be provided for units on this site at a rate of between 60 and 125 square metres. I acknowledge the shortfall in private open space provision for Houses 2 (60 sq m), 4 (70 sq m) and 5 (65 sq m). Having regard to the acceptability of the proposed development in terms of design and layout and addressing potential adverse impacts on residential amenity in this area, as well as the need to ensure the delivery of an acceptable density of development, it is considered that the design response is appropriate and that the relaxation in the quantum of private open space would be acceptable in this instance.

### *Traffic Provisions and Car Parking*

7.3.6 The access arrangements into and out of the site onto Shandon Park, a short cul-de-sac, would not result in any significant traffic concerns, having regard to the likely volume of traffic emanating from the proposed six terraced houses. The junction of this road with Monkstown Road is adequate to accommodate the likely low volume of additional traffic turning movements arising from the proposed development. The vehicular access complies with Plan design requirements. There is an established vehicular entrance onto Stradbroke Road and its use by House 7 is not seen to pose any increased traffic concerns. I note that parking provisions accord with Plan requirements for two spaces per dwelling and an additional visitor parking space has

been added. I do not consider that significant overspill parking should arise for adjoining streets if compliance is met with Plan requirements.

7.3.7 In conclusion, I am satisfied that the proposed development meets with Development Plan requirements for residential development.

## 8.0 Recommendation

8.1. I recommend that permission is granted in accordance with the following reasons and considerations and the recommended conditions.

## 9.0 Reasons and Considerations

9.1. Having regard to the requirements of the current Dún Laoghaire-Rathdown Development Plan in relation to density of new residential development, to the form, layout, design and siting of the proposed development on residentially zoned lands, to the pattern of development in the area, and to the provision of accesses via an established entrance onto Stradbrook Road and onto the established cul-de-sac estate road of Shandon Park, it is considered that the proposed development would not constitute an excessive density of development, would not adversely impact on the residential and visual amenities of the area, would not endanger public safety by reason of traffic hazard and would otherwise be in accordance with the provisions of the current Development Plan. 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 drawings and details submitted to the planning authority on the 19<sup>th</sup> May, 2017 and the details submitted to An Bord Pleanála on 2<sup>nd</sup> August, 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. Details of the materials, colours and textures of all the external finishes to the proposed dwellings 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 site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This shall include the replacement of the proposed trees along the boundary with No. 4 Shandon Park with a lower hedgerow option, details of the form of timber fencing within and bounding the site, the timelines for the early implementation of boundary planting, and the ongoing maintenance of the hard and soft landscaping provisions.

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

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. Prior to the commencement of development, details of traffic management provisions, inclusive of traffic signage, the layout of pedestrian footways within the site and the layout and number of cycle spaces, shall be submitted to and agreed in writing with the planning authority.

**Reason:** In the interest of traffic safety.

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.

7. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of public open space. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

8. 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

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Kevin Moore  
Senior Planning Inspector

12<sup>th</sup> October 2017