



An  
Bord  
Pleanála

## Inspector's Report PL29N.248972

---

<b>Development</b>	House
<b>Location</b>	Site adjacent to No. 4 Hampton Lodge Walk, The Cloisters, Grace Park Road, Dublin 9
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2912/17
<b>Applicant(s)</b>	LDC Developments Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	LDC Developments Ltd
<b>Observer(s)</b>	Barbara Halpenny and Mary Halpenny; Amanda Jones of Keenan Property Management
<b>Date of Site Inspection</b>	28 <sup>th</sup> September 2017
<b>Inspector</b>	Una O'Neill

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision.....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	4
3.3. Prescribed Bodies.....	4
3.4. Third Party Observations .....	4
4.0 Planning History.....	5
5.0 Policy Context.....	7
6.0 The Appeal .....	7
6.1. Grounds of Appeal .....	7
6.2. Planning Authority Response.....	8
6.3. Observations.....	8
6.4. Further Responses.....	9
7.0 Assessment.....	9
8.0 Recommendation.....	14
9.0 Reasons and Considerations.....	14

## 1.0 Site Location and Description

- 1.1. The appeal site is in a suburban area of north Dublin. Access to the site is from Grace Park Road, with a small housing scheme of two-storey dwellings known as the Cloisters located along the access road. The site is bounded to the east by a terrace of 4 recently constructed two-storey terraced dwellings. The apartment buildings of Hampton Lodge stand to the west and north of the site and are between three and five storeys in height.
- 1.2. The site itself is 261sqm in area and is a vacant plot of land, under partial hardcore/rubble, which opens onto/forms part of an existing wider open space area.
- 1.3. The Dublin Port Tunnel runs under the site.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the construction of one two-storey, four bedroom, detached dwelling, 178sqm in area, with 2 off street parking spaces.

## 3.0 Planning Authority Decision

### 3.1. Decision

REFUSED permission for the following reason:

The site of the proposed development is located in an area, which is zoned Z1 'to protect, provide and improve residential amenities' in Dublin City Development Plan 2016-2022. It is considered that the proposed development would result in the loss of useable open space for the 'Hampton Lodge' residential scheme which is integral to the amenities on the overall site for residents of the overall development. The proposed development would seriously injure the amenities of property in the vicinity by reason of loss of open space and would, therefore be contrary to the proper planning and sustainable development of the area.

### 3.2. **Planning Authority Reports**

#### 3.2.1. Planning Report

The Planning Officer's report generally reflects the decision of the Planning Authority.

#### 3.2.2. Other Technical Reports

- Drainage Department: No objection.
- Roads and Traffic Division: No objection.

### 3.3. **Prescribed Bodies**

None.

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

A number of submissions were made during the course of the application. The issues raised are summarised hereunder:

- Proposal will result in loss of open space associated with Hampton Lodge apartments and impact on amenity of residents of Hampton Lodge.
- Development on this open space land has been repeatedly refused in the past.
- Proposal would impact on visual amenity of the green spaces/communal garden in front of the apartments and associated wildlife.
- Proximity of house to the neighbouring apartments would affect amenity of residents of apartments and associated patio/balcony and would result in overshadowing of bedrooms as well as loss of outlook.
- Proposal is out of character with the street being a detached house between terraced properties and an apartment block.
- Access along the existing pathway to the front of the apartments will be limited by the proposal.
- Proposed house would result in overdevelopment of a high density scheme.

- Lack of parking exists in the area and proposal will result in loss of two further spaces and increase traffic hazard.
- House is proposed on previous access road required to allow Fire Brigade and emergency services access to the southern end of Hampton Lodge Block A.
- Access to the house will be via a footpath to the front of the site and ownership of this is questioned.
- The site location map and architects drawings do not match in relation to the red line boundary of the site.

#### 4.0 Planning History

There is an extensive planning history pertaining to the site, which is set out in the Planning Authority Planner's Report. Of relevance are the following decisions:

**PL29N. 203824**, Reg. Reg. 4378/02 – Permission GRANTED for a development of 110 apartments. The authorised apartments have been built and are known as Hampton Lodge. Condition no. 2 of the Board's decision omitted a block of apartments and access road. The access road relates to the site subject of this appeal. Condition no. 6 required a scheme of landscaping for the entire site to be agreed with the planning authority and implemented. The conditions read as follows:

C2. Block C, together with associated access road, car parking and cycle parking, shall be omitted from the proposed development.

**Reason:** It is considered that this element of the proposed development, by reason of its back-to-back design, layout and proximity to adjoining property, would seriously injure the amenities of property in the vicinity and would provide a substandard form of residential amenity for future occupants.

C6. The area shall be landscaped in accordance with a scheme of landscaping and boundary treatment, details of which shall be submitted to the planning authority for agreement before development commences. The scheme shall include a timescale for its implementation.

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

The following applications related to proposed development of residential units on lands to south/southeast of this appeal site, with the proposed access/entrance road to those applications relating to the area of land subject of this appeal:

**PL29N. 222175**, Reg. Ref. 6373/06 – Permission REFUSED for 8 houses, part of the access/entrance road of which comprises the current appeal site. The reasons for refusal related to the loss of a centrally located useable open space within the overall site, the loss of which would seriously injure the amenities of future occupants; proposal would be out of character with the general pattern of development within the overall site; and issue of substandard provision of private amenity space.

**Reg. Ref. 2132/16** – Permission REFUSED for an apartment block. The reasons for refusal related to loss of useable open space; proposal out of character with area; and applicant did not adequately demonstrate that the development would not reduce the structural safety, integrity and durability of the tunnel.

**Reg. Ref. 2272/16** – Permission REFUSED for 6 terraced dwellings. The reasons for refusal related to loss of useable open space; proposal out of character with area; and applicant did not adequately demonstrate that the development would not reduce the structural safety, integrity and durability of the tunnel.

**PL29N. 247416** - 3509/16 - Permission REFUSED for a block of 9 apartments. The reasons for refusal related to the loss of a centrally located open space within the overall site, the loss of which would seriously injure the amenities of future occupants and the proposal would materially contravene condition numbers 2 and 6, as granted under An Bord Pleanála appeal reference number PL29N.203824 and planning register reference number: 4378/02.

## **Site to East**

**Reg ref 4522/06** – Permission GRANTED for 4 No. two storey terraced houses, with a condition attached omitting 8 No. two storey terraced houses. The duration of this permission was extended by 5 years to the 10<sup>th</sup> November 2016. These dwellings have now been constructed.

## **5.0 Policy Context**

### **Development Plan**

- 5.1. The Dublin City Development Plan 2016-2022 applies. The site is zoned under objection Z1 'To protect, provide and improve residential amenities'.
- 5.2. Section 16 of the development plan relates to Development Standards: Design, Layout, Mix of Uses and Sustainable Design. Section 16.10.10 relates to Infill Housing.
- 5.3. Appendix 6 is entitled the Dublin Port Tunnel Structural Safety. It says - A suitably qualified structural engineer must prepare a development assessment. If the proposal is within 6 metres of the outer edges of the tunnel bore, a suitably qualified tunnelling engineer must prepare the assessment. Assessment of the structural suitability of proposals and submitted applications is at present carried out by Transport Infrastructure Ireland, acting on behalf of the Roads and Traffic Department of Dublin City Council.

### **Natural Heritage Designations**

- 5.4. The site is not located within any designated Natura 2000 site.

## **6.0 The Appeal**

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

The grounds of the first party appeal are summarised as follows:

- Proposal is compliant with zoning objective Z1.

- Land is currently underutilised and proposal is in line with policies SC27, QH1, QH5, QH6, QH7 and QH8.
- Proposal accords with development plan policy in relation to infill housing.
- Proposal will not impede access to Hampton Lodge apartments.
- Proposal positively contributes to the streetscape.
- Proposal complies with development plan standards.
- The proposed dwelling will make use of a vacant/unattractive site which does not offer any amenity to people in the area. The site is zoned residential and providing a dwelling will be a more efficient and sustainable use of land.
- It is noted that the parent permission did not designate this land as open space and the reason block c was omitted from the parent permission did not relate to concerns over the provision of open space. There is an over-supply of open space serving the existing development.
- The applicant is agreeable to a condition by the Board on any grant of permission which requires the remaining area of land to the rear of the site to be offered to Dublin City Council as public open space.
- Proposed development complies with ministerial guidelines.

## 6.2. Planning Authority Response

The Planning Authority stated no further comment.

## 6.3. Observations

Two submissions have been received, one from the owners of an apartment in Hampton Lodge, Barbara Halpenny and Mary Halpenny, and one from the Property Manager for Hampton Lodge Development. The submissions are summarised as follows:

- Reasons for refusals on previous applications on this site still apply. The nature of this application is not different from previous applications.



- While this proposal has a smaller footprint than previous developments, it would be detrimental to amenities of residents.
- This site was part of the landscape plan for the original development and it is noted that this area was identified as part of the open space for the development.
- The ability to use the site subject of the appeal for open space has been impacted upon by the building of four houses adjoining the site.
- Quoted policies are not relevant. Proposal is for one house which will affect the amenities of over 132 families.
- Proposal will impact on accessibility of emergency services to the apartments in Block A.
- Concern is raised about the statement that land will be transferred to Dublin City Council if permission is granted.
- There are drains under the site which are not shown on the plans.

#### 6.4. Further Responses

None.

### 7.0 Assessment

7.1. The primary issues for assessment include:

- Planning History and Open Space Use
- Impact on the amenities of properties in the vicinity

#### **Planning History and Open Space Use**

7.2. The applicant in the grounds of appeal argues that the subject site is a vacant underutilised site which offers no amenity value and would be more sustainably developed as a house, given that its zoned for residential use. Furthermore, the applicant argues that this site was not intended to be retained for open space use and refers to the parent permission for the overall site. The applicant states that if the Board is minded to grant permission, the applicant would be agreeable to a condition

requiring the remaining area of land to the rear of the site to be offered to Dublin City Council as public open space.

- 7.3. The objectors to the development argue the site is part of the larger open space for the scheme, in accordance with the parent permission for the wider development, and the proposed dwelling would detract from existing amenities of the apartments by virtue of loss of open space and the visual amenity of the area.
- 7.4. I note that the site relating to this application is smaller than previous applications for residential development at this location with the proposed development relating to a section of land that was previously proposed as an access road to the open space area to the rear of the site. The subject site is approx. 9m wide and 31m deep.
- 7.5. Having examined the details of the application and history of the site, it is my view that the subject site, as previously determined by the Board and the Planning Authority, is part of the wider open space of the residential development at Hampton Lodge authorised by the Board's grant of permission under PL29N. 203824, Reg. Ref. 4378/02. The applicant argues that this site was not intended for open space. I note condition no. 2 of the Board's decision under PL29N. 203824 did not explicitly state that this land would be incorporated into open space, however it was, as noted in previous Board assessments and the most recent Board assessment of this site, that it was an established practice at the time to omit elements from proposed residential development with a presumption that the open space serving the authorised development would be increased. This is reinforced in this instance with regard to Condition no. 6 of the permission, which required the landscaping and boundaries of the entire site to be carried out in accordance with the detailed specifications of the Planning Authority. It is clear that the terms and conditions of the permission did not envisage or propose the severance of the open space from the site of the overall residential development nor was the land identified specifically for further residential development. Any confusion that might have arisen on this matter was resolved by the Board's decision to refuse permission to build on this land under PL29N.222175, Reg. Ref. 6373/06 which included the explicit statement that the wider open space area, the northwestern section of which this current appeal site relates to, was integral to the amenities of the overall development. The subsequent decisions of the Board and the Planning Authority have upheld the requirement that this land be maintained as open space.

- 7.6. The proposed development would decrease the area of open space serving the residents of Hampton Lodge by 261sqm. A triangular strip of open space (1.5m-7.5m wide) with adjoining footpath would be left between the boundary of the proposed site and the front of the apartment block to the west. The function of the remaining open space would be greatly reduced given its narrowness. The assertion by the applicant that the quantum of open space on the site is in excess of that required by the development is not in my view a sufficient reason to reduce the level of open space that exists. The fact that the section of land subject of this application is a smaller parcel of land than that submitted under previous applications does not make its contribution to the wider open space area any less valuable nor tolerable were it to be lost and utilised for an infill house. While the land subject of the appeal is not at present maintained, I do not accept that it is of no amenity value. It is underutilised at present due to the condition in which it has been left by the developer/impact of construction works from the adjoining 4 houses and the lack of implementation of condition 6 of the parent permission in relation to landscaping. The proposed development would in essence materially contravene conditions 2 and 6 of the parent permission, PL29N.203824.
- 7.7. To apportion a section of the open space for an infill house would seriously injure the amenities of the existing development and is contrary to the proper planning and sustainable development of the area.
- 7.8. I see no relevance to the proposal by the applicant that should the Board be minded to grant permission, the applicant would be agreeable to a condition requiring the remaining area of land to the rear of the site to be offered to Dublin City Council as public open space. This area is outside the boundary of the site being assessed and, notwithstanding this, it has been previously assessed and refused under previous applications for residential use.

#### **Impact on the amenities of property in the vicinity**

- 7.9. The applicant states that the proposal is in line with policies SC27, QH1, QH5, QH6, QH7 and QH8 and standards in relation to infill housing. It is also stated the proposed dwelling is in line with ministerial guidance in terms of design.
- 7.10. Observers have raised concerns in relation to the impact on the amenities of the residents of Hampton Lodge Apartments with a decrease in the level of open space

available and the potential impacts on the apartments in terms of overlooking, overshadowing and loss of outlook.

- 7.11. The proposed dwelling is approx. 9.4m high, 7m wide and 12.5m deep, with an additional single storey element to the rear. In terms of layout and size of private open space, the proposed dwelling is acceptable. However, the proposed dwelling appears to be marginally higher than the neighbouring dwellings to the east by approx. 100mm and sits approx. 800mm forward of the established building line of the neighbouring properties. In the interests of visual amenity, the dwelling should respect its immediate context and maintain the existing building line of Hampton Walk and the ridgeline of these dwellings.
- 7.12. The boundary wall to the side and rear of the dwelling is 1.8m high, reducing down to 900mm high forward of the front building line of the proposed dwelling. The side elevation presents a blank elevation to the side of the neighbouring apartment. While this may be, to a degree, be considered positive with regard to issues of overlooking, I am of the view that the dwelling in its design should at least turn the corner at ground level and present an element of passive surveillance to the side strip of open space.
- 7.13. The proposed 1.8m boundary wall of the site would be approx. 11m from the apartment block toward the front of the site. The rear portion of the site comprising the garden area is approx. 6.5m from the apartment block. The proposed dwelling would in my view have a negative impact on the existing apartments in terms of outlook given the proximity of the site to the apartment block. The diminished area of open space available to the side of the site/front of the apartment block would also reduce the visual transition from the higher apartment blocks to the proposed dwelling, affecting the visual amenity of the area.
- 7.14. No assessment has been submitted with the application in regard to overshadowing. A degree of overshadowing would be expected in this instance given the location of the apartments west of the appeal site, however I am of the view that given the orientation and scale of the proposed dwelling on the site it would not be significant.
- 7.15. While there is no issue of overlooking from the dwelling toward the apartments, I note there is a degree of overlooking from the existing apartments toward the private open space of the proposed dwelling thereby affecting the residential amenity of

future occupants, the apartments being 6.5m-10m from the rear garden area of the proposed dwelling. However, this issue is not considered so significant as to warrant a refusal in its own right, given the context of the proposed dwelling in a residential estate with a mix of houses and apartments.

### **Other Matters**

- 7.16. No information has been submitted in relation to the impact of the proposed dwelling on the port tunnel which appears to traverse under the appeal site. Appendix 6 of the Dublin City Development Plan 2016-2022 states a suitably qualified structural engineer must prepare a development assessment as to the structural suitability of a proposal to ensure the structural integrity of Dublin Port Tunnel is conserved. This was not raised in the grounds of appeal and the Board may consider this a new issue.
- 7.17. The site layout plan, as noted in a submission, does not extend as far as the public road. The footpath, over which the proposed dwelling will be accessed, was in a previous application stated to be in the ownership of the management company for the Hampton Lodge apartments. No information in relation to this issue was submitted by the applicant. It is therefore possible, as noted in the most recent Board assessment of development including this site, that the applicant may lack the necessary legal interest in land to carry out the proposed development.
- 7.18. The site location map shows a gap between the proposed site outlined in red and the adjoining 'area under construction', which now comprises 4 terraced dwellings. The site dimensions as indicated on the site layout plan do not match those indicated on the site location map. There would appear to be an error in relation to the scales shown on the two drawings.

### **Appropriate Assessment**

- 7.19. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any 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.

## 8.0 Recommendation

- 8.1. Having considered the proposal for 1 infill dwelling on a site which forms part of a wider open space area serving Hampton Lodge apartment development, it is recommended that the proposed development be refused for the reasons set out hereunder.

## 9.0 Reasons and Considerations

1. The proposed development would occupy land that is part of the open space of the residential development authorised under PL29N. 203824, Reg. Ref. 4378/02, known as Hampton Lodge. The proposed development would therefore result in the loss of useable open space which is integral to the amenities of the residents of the overall development and it is considered, having regard to zoning objective Z1, that the proposed development would therefore seriously injure the amenities of property in the vicinity by reason of loss of open space and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development would materially contravene condition numbers 2 and 6, as granted under An Bord Pleanála appeal reference number PL29N.203824 and planning register reference number: 4378/02.

---

Una O'Neill  
Senior Planning Inspector

1<sup>st</sup> November 2017