



An
Bord
Pleanála

Inspector's Report

PL06D.249163

Development	Five houses and all associated site works.
Location	Brehons Chair, Kellystown Road, Rathfarnham, Dublin 16.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D17A/0530
Applicant(s)	Audrey Conlon
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	1. Audrey Conlon
Observer(s)	1. Peter and Deirdre Owens 2. Brian and Jill Tyrrell 3. Cormac Llewellyn and Ellen O'Rourke 4. Mark and Andrea Kavanagh 5. Darren and Louise Mcadam

6. Brehon's Chair Management
Company Ltd.

Date of Site Inspection

28th November 2017

Inspector

Emer Doyle

1.0 Site Location and Description

- 1.1. The subject site is located on Kellystown Road, Rathfarnham, and is accessed through the Brehon's Chair gated housing estate, which takes its name from the national monument to the north. The Brehon's Chair housing estate consists of 25 No. detached dwellings located both sides of the access road and two cul de sacs. The two cul de sacs are aligned from north to south either side of a central area of open space and to the south of the green area around the national monument.
- 1.2. The site has a stated area of 0.4494 hectares and comprises an overgrown site which is steeply sloped. The adjoining residential development comprises of two storey dwellings with significantly lower finished floor levels than the site.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of 5 No. dormer houses with a floor area of 214 square metres. The ridge height is 6.5 metres and the sites vary in size from 290 square metres (Site No. 1) to 478 square metres (Site No. 5).

3.0 Planning Authority Decision

3.1. Decision

Permission refused for two No. reasons as follows:

1. Having regard to the proposal to construct an access road over land zoned 'F', which has an objective 'to preserve and provide for open space with ancillary active recreational amenities', it is considered that the proposed development would contravene materially a development objective indicated in the development plan for the zoning of land for the use solely or primarily of particular areas for particular purposes and the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the application site falls within an area constituting a transitional zone between residential development to the north and the high amenity land to the south. Having regard to the scale and massing of the development proposed, to its proximity to high amenity land, it is considered

that the proposed development would seriously injure the amenities of more sensitive 'G' zoned lands. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. **Planning Report**

- A total of 12 No. submissions were received by the Planning Authority.
- It considered that a road through lands zoned as 'open space' would materially contravene this objective. The lands are considered to be located in an 'Transitional zone' in accordance with Section 8.3.2 of the Development Plan. The Planning Authority concurs with the previous condition of ABP which required the dwellings to be single storey only.

Other Technical Reports

Transportation Planning: Requires Further Information.

Drainage: Requires Further Information.

3.3. **Prescribed Bodies**

Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs: Requires pre-development testing conditions to be included in any grant of permission.

Inland Fisheries Ireland: Notes that the proposed development is located in the catchment of the Little Dargle River, an important salmonid system and tributary of the River Dodder main channel. Notes that salmonid waters constraints apply to any development in this area.

4.0 **Planning History**

4.1 I consider that the history most relevant to this application is as follows:

PA D13A/0067, D13A/0068, D13A/0069, D13A/0070, D13A/0071,

ABP 06D.241945, 06D.241946, 06D.241947, 06D.241948, 06D.241949

Outline permission refused by Planning Authority for five detached units on five individual plots. On appeal to the Board, outline permission was granted for Plots 1, 2 and 5 (PL06D.241945, PL06D.241946 and PL06D.241949) and refused for plots 3 and 4.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative Development Plan is the Dun Laoghaire County Development Plan 2016 – 2022.

5.1.2 The subject site is zoned A: *“To protect and/or improve residential amenity.”* The principle of residential development is acceptable under this zoning objective.

5.1.3 The access road is through lands zoned ‘F’ ‘To preserve and provide for open space with ancillary active recreational activities.

6.0 The Appeal

6.1. The first party appeal by Audrey Conlon can be summarised as follows:

- The Board’s previous decision has already determined a solid precedent for development of these lands.
- It is considered that the development provides an appropriate transition arrangement and is in keeping with the scale and massing of the neighbouring properties.
- Following a detailed review of site levels it is possible to further reduce the proposed finished floor levels as shown in a table within the appeal. The reductions proposed vary between 0.5m for House No. 5 and 1.25m for House No. 4.
- A number of alterations are proposed to the roof design to reduce the visual impact.

6.2. **Planning Authority Response**

- It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.3. **Observations**

The six observations submitted (**Peter and Deirdre Owens, Brian and Jill Tyrrell, Cormac and Ellen Llewellyn, Mark and Andrea Kavanagh, Darren and Louise Mcadam and Brehon's Chair Management Company Ltd.**) can be summarised as follows:

- Concerns regarding design and visual impact.
- Impact on public open space.
- Traffic safety of access road.
- Concerns regarding overbearing and overlooking.
- Concerns regarding departure from previous Board decision.

7.0 **Assessment**

The main issues are those raised in the appeals and observations and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Design and Height
- Impact on Public Open Space
- Impact on Residential Amenity
- Appropriate Assessment

7.1 **Design and Height**

7.1.1 The principle concern raised by the observers relates to the design and height of the dwellings. It is considered that they are too high and will detract from the visual amenity of the area.

- 7.1.2 The existing dwellings within the estate are two storey in height and the proposed dwellings are dormer in style with a height of 6.5m. An Bord Pleanála granted outline permission for three houses at this location and condition No. 2 of the sites granted required that the height would be single storey only. Outline permission had originally been sought for two storey houses.
- 7.1.3 I note that the houses proposed are dormer bungalow in style with heights of 6.5m. The finishes floor levels vary from 133m to 136.5m. The appeal response proposes to reduce the finishes floor levels to finished floor levels of between 132m and 135m. The finished floor levels previously granted were 133.5m for Plot 1, 134.5m for Plot 2 and 133.75 for Plot 5. The finished floor levels now proposed are 132m for Plot 1, 134m for Plot 2 and 132m for Plot 5 with overall reductions of between .5m and 1.75m. Whilst the 6.5m height proposed may be slightly higher than a traditional single storey dwelling, overall, I am satisfied that the proposed heights and finished floor levels would not detract from the visual amenities of the area.
- 7.1.4 I consider that the removal of a dormer window from each of the bedrooms proposed in the response to the appeal will reduce the massing of the proposed dwellings.
- 7.1.5 In terms of the revised design and the revised finished floor levels, I am of the view that the design has been well considered and the alterations proposed are appropriate, are not unduly prominent and will not result in visual disharmony with adjacent dwellings. In addition, in terms of overall visual impact, I am satisfied that what is now proposed will not be significantly greater than the outline permissions previously granted by the Board.

7.2 **Impact on Public Open Space**

- 7.2.1 The main concern of the observers is regarding the loss of the recreational area of the estate. Lands zoned as 'F' would be torn up according to the observation from Peter and Deirdre Owens to 'make way for an access road, rendering the area unviable for recreation and too small to play children's games.'
- 7.2.2 I agree with the point that the lands are zoned 'F' and the access road is through an existing open space area within the estate. However, I note that it is at the edge of the open space and is in the same location previously proposed. I do not consider that it splits the open space area or makes it unusable. I consider that the overall impact will be minimal and that the open space will still be available for active and

passive recreational activities. I draw the Board's attention to the Board Order of PL06D.241949- one of the previous outline permissions on the site which states the following:

'In deciding not to accept the Inspector's recommendation to refuse outline permission, the Board considered that the proposal complied with the zoning for the site, that the loss of open space was marginal, that the residual open space to the existing estate was adequate...'

Whilst I accept that the impact of 5 No. houses will be greater than the 3 previously granted, I consider that the existing open space is well located within the site and the usability of same will not be compromised to an undue degree by the proposed development. I note that concerns raised regarding the gradient of the existing open space and the access road though this, however, it is my view that a precedent has already been set by the outline permission for 3 No. dwellings on this site and I consider that the access road will be acceptable in terms of traffic safety.

7.3 Impact on Residential Amenity

7.3.1 The main concerns raised relate to overlooking and overbearing impacts of the proposed development.

7.3.2 Having regard to the heights and design of houses proposed, I do not consider that they will give rise to an overbearing impact. In terms of overlooking, there is an access road and a large open space area between houses 2, 3 and 4 and there is no potential for overlooking in my view at these locations. There is a very substantial difference in finished floor levels between all the sites and the existing houses which could give rise to additional concerns in relation to overlooking. Notwithstanding this, there are no windows other than velux rooflights directly overlooking any property and there are substantial separation distances between even the closest sites and the adjoining properties. In this context, it is not considered that any undue overlooking will occur.

7.4 Appropriate Assessment

7.4.1 Having regard to the nature and scale of the proposed development, and its distance 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.

8.0 Recommendation

- 8.1 It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the current Dun Laoghaire Rathdown County Development Plan 2016-2022, the planning history of the site, the location of the site in an established residential area and its zoning for residential purposes and to the nature, form, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area. The proposed development would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 31st day of 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 and boundary treatment 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. 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.

4. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Reason: In the interests of visual and residential amenity.

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.

7. The developer shall facilitate the protection of archaeological materials or features which may exist within the site. In this regard, the developer shall

- (a) notify the planning authority in writing at least four weeks prior to the

commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably- qualified archaeologist who shall monitor all site investigations and other site works,

(c) where archaeological material is shown to be present, avoidance, preservation in situ, preservation by record and/or monitoring shall be required, employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(d) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

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.

Emer Doyle

Inspector

6th December 2017