



An  
Bord  
Pleanála

## Inspector's Report PL 06D.249247

---

<b>Development</b>	Demolition of existing single-storey building and construction of 5 apartments
<b>Location</b>	26 Newtown Park, Blackrock, County Dublin
<b>Planning Authority</b>	Dún Laoghaire-Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D17A/0291
<b>Applicant(s)</b>	St. Laurence O'Toole Diocesan Trust
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	David & Margaret Farrar
<b>Date of Site Inspection</b>	12 <sup>th</sup> December, 2017
<b>Inspector</b>	Kevin Moore

## 1.0 Site Location and Description

- 1.1. The site of the proposed development is located at the corner of Newtown Park and Orchard Lane in Blackrock, County Dublin. A single-storey community building occupies the site and is in use as a Montessori school. The site is bounded to the west by No. 28 Newtown Park, which is a two-storey period residence that has two-storey and single-storey returns to the rear. There is a single-storey garage (Newtown Park Tyre Centre) to the north. There are two-storey terraced commercial units on the opposite side of the junction with Orchard Lane. Development along Newtown Park in the vicinity of the site comprises mainly two-storey semi-detached and terraced properties, while Orchard Lane has a mix of single and two storey properties.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of an existing single-storey community centre building and the construction of a two-storey block containing 5 no. apartments (3 no. two bedroom and 2 no. one bedroom units). The proposed two ground floor units each have 'own door' access and the three apartments overhead would have a shared access arrangement, served by external steps accessed from the public area at ground level. A roof garden would be developed and a car port providing 5 covered car parking spaces and stores would also be provided. The development would comprise a stated floor area of 358.07 square metres and would be located on a site with an area of 0.0304 hectares.
- 2.2. The scheme was revised by way of further information, adding bin storage and revising internal layouts to meet minimum standards, while retaining the form and character of the original design and the number of apartments.

## 3.0 Planning Authority Decision

### 3.1. Decision

On 18<sup>th</sup> August 2017, Dún Laoghaire-Rathdown County Council decided to grant permission for the development subject to 21 conditions.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Planner noted observations made and planning history in the surrounding area and referenced relevant development plan provisions. The Transportation Planning Engineer's report was repeated. The proposal was seen to be non-compliant in terms of minimum aggregate floor areas and minimum storage space requirements. It was noted that the proposal would have almost full site coverage. The development was found to be well designed for the corner site. Glazing in place of timber fencing surrounding the roof terrace was favoured. No significant overshadowing or overlooking effects on adjacent properties were seen to result and it was considered that no visual intrusion arose for the adjoining No. 28 Newtown Park. Private open space and communal open spaces were found to be consistent with minimum requirements. The need for secure communal storage areas was referenced. The proposal to abut No. 28 Newtown Park was viewed as a civil matter and it was recommended that a note be attached stating that the development should not oversail the site boundary without the written consent of the adjoining landowner. A request for further information was recommended.

### 3.2.2. Other Technical Reports

The Transportation Planning Engineer submitted that 8 car parking spaces were required to be provided. A request for further information was recommended seeking details on increased footpath widths, increased parking, vehicular movement associated with parking, parking for bicycles, street furniture, avoidance of overhanging of a balcony onto the footpath, and a construction management plan. The Drainage Engineer had no objection to the proposal.

## 3.3. Third Party Observations

Objections to the proposal were received by the planning authority from David and Margaret Farrar and Ian Hennessy. The grounds of appeal reflect the principal planning issues raised.

3.4 A request for further information was issued by the planning authority on 24<sup>th</sup> May 2017 and a response was received on 12<sup>th</sup> June 2017. It was stated that the sale of the apartments is to aid in the funding of a new community centre and that the applicant wanted to keep the maximum number of units for sale, in line with density policies.

Further objections were received from David and Margaret Farrar and from Ian Hennessy.

Following the receipt of further information, the Transportation Planning Engineer requested clarification on most of the items originally requested by way of further information. The Planner repeated his original report and noted the objections made. The planning matters raised by way of the further information request were seen to have been responded to satisfactorily. Parking provision was considered acceptable. The other items requested for clarification by the Transportation Planning Section were noted and clarification was recommended.

3.5 A request for clarification was issued on 4<sup>th</sup> July 2017 and a response was received by the planning authority on 24<sup>th</sup> July 2017.

Further to the response, the Transportation Planning Engineer recommended the attachment of conditions in the event permission being granted. The Parks Department recommended that a special development contribution be sought in lieu of the provision of public open space. The Planner repeated his previous reports, noted the clarification received and the response by the Transportation Planning Section, and recommended that permission be granted subject to conditions.

## 4.0 **Planning History**

I have no record of any planning application or appeal relating to this 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 also states 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. As a general rule the minimum default density for new residential developments in the County is to be 35 units per hectare. It is acknowledged that 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.

### Development Management

#### *Apartment Development*

Section 8.2.3.3 states that apartment developments should be of high quality design and site layout having regard to the character and amenities of the surroundings. Requirements for new development include those relating to meeting Government

guidelines on residential development, mix of units, internal storage, minimum apartment floor areas, and public, communal and private open space standards.

Sections 8.2.8.2 and 8.2.8.3 of the Plan provide details on quality and quantity of public open space for apartment developments, with the former providing for a financial contribution in lieu of open space.

## **6.0 The Appeal**

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

The appellants are the owners of No. 28 Newtown Park, adjoining the appeal site.

The grounds of the appeal may be synthesised as follows:

- The proposal represents overdevelopment. It would deliver sub-optimal development for occupants, would likely worsen existing on-street parking problems, and would significantly diminish local residential amenities. It would provide an unusually high residential density, site coverage of over 90%, poor single aspects for two apartments, poor sunlight amenity to three apartments, very tight on-site parking, fewer parking spaces than required in the Development Plan, and tight, poorly sited waste facilities. The development is not a site that is located in a major town centre or within 500m of a railway station, Dart or QBC. It does not comply with development plan provisions, notably Policy RES3.
- The proposal would require part-demolition of the roof of the appellants' property and would result in significant overlooking of No. 28 from the proposed roof garden.
- Documentation is deficient and does not facilitate proper assessment of the application. The Board is asked to clarify issues raised and afford the appellants the opportunity to respond.
- The development does not respect the roof profile of No. 28 and, therefore, cannot be implemented. The eaves of No. 28 over sail its gable wall in the direction of the site. Consent is required for part demolition of the roof of No.

28 and the modifications would damage the integrity and character of No. 28. The Board is asked to follow its decision in Appeal Ref. PL 06D.247981 and refuse permission on lack of title.

- There is an under-provision of on-site parking and there is no evidence of traffic and parking impacts being assessed cumulatively with new permitted development in the area. Vehicular turning movement associated with parking would also be extremely hazardous.
- The development of the roof garden would result in overlooking of No. 28. If the screen designed to prevent overlooking does not wrap around the southern and northern elevations of the roof garden it will still be possible to overlook the windows and private amenity space of No. 28. The use of the roof garden would interfere with local residential amenities.
- The existing structure on the site is set back from No. 28. The proposal does not include any set back. Increasing the site coverage would result in overdevelopment and would have a negative impact on the foundations of No. 28. A setback should be retained, reducing the impact on No. 28 and the perception of overdevelopment.
- There are concerns about the quality of residential amenity. There is no public open space and private open space is minimal. Apartment 2 has a very poor aspect in terms of access to sunlight. Apartments 4 and 5 (40% of the scheme) are single aspect, east facing, and will have very poor sunlight amenity.
- Access to the first floor apartments is accessible to the public, is not passively overlooked and may lead to anti-social / safety concerns for residents.
- The location for waste bins is very poor, with all apartment users having to carry waste to the three large bins directly outside the living/dining area of Apartment 1.

## 6.2. Applicant Response

There was no response to the appeal from the applicant.

### 6.3. **Planning Authority Response**

The planning authority stated that it considered the grounds of appeal do not raise any new matter which would justify a change of attitude to the proposed development.

## 7.0 **Assessment**

7.1 I consider that the principal planning issue relating to the appeal centres on the matter of overdevelopment of the site. My considerations on the proposal are as follows:

- The site is zoned 'A' with the objective "To protect and/or improve residential amenity." A key matter for the Board is whether the proposed development would protect established residential amenity and potentially improve that amenity.
- Having regard to the physical extent of the proposed development, i.e. its footprint, the site presents itself as extremely constrained, with the ability to accommodate only the apartment building and associated parking, and with bin storage tacked on to the frontage.
- The development provides a density of 165 units per hectare, vastly greater than the minimum density of 35 units per hectare recommended in the current Dún Laoghaire-Rathdown Development Plan. I note that the Plan recommends 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. This proposed site is not within such catchments. Having regard to the particular problems arising for the proposed development as will be referenced below, I submit that the excessively high density of development should not be encouraged on this site, notwithstanding the applicant's desire to maintain the density in order to sell the apartments to aid in the funding of a new community centre.



- Two of the apartments (Nos. 4 and 5) would be single aspect, representing 40% of the scheme. According to the current County Development Plan, apartment developments are expected to provide a minimum of 70% of units as dual aspect apartments. I acknowledge that relaxation of the 70% requirement may be considered on a case-by-case basis. However, when these same apartments and one other are east-facing (and the latter having one other small window facing north directly onto a parking space), I submit that the quality of the development for the occupiers of these units is called into question when considering the sunlight available to these units.
- The proposed development seeks to provide communal open space in the form of a roof garden, emphasising the scale of the footprint of the development and the site's inability to otherwise provide for basic open space needs of occupiers at ground floor level. This space brings with it potential concerns for neighbouring properties by way of overlooking. However, I accept that adequate screens may limit the potential to affect established amenities.
- I note the provisions for private amenity space for intended occupiers of the scheme. I would seriously call into question the functionality of the provisions being made for the ground floor units, which effectively abut the public footpaths.
- The proposed development would provide 5 no. car parking spaces, at a rate of one space per apartment unit. The development is located where parking is prohibited along the full frontages of the appeal site. The Development Plan requires parking at a rate of 1 space per 1-bed unit and 1.5 spaces per 2-bed unit. Visitor parking is also required to be adequately provided for and reserved for the use of visitors. Based on these requirements, the proposed development should effectively be providing a minimum of 7 car parking spaces on the site for residents separate to any visitor parking. I acknowledge that the Transportation Planning Engineer requested that 8 spaces be provided on site. It is clear that the proposed development is most likely to result in further on-street parking at this location. Further to this, I note the parking layout, whereby the manoeuvring required to enter and exit this site will be particularly difficult, frequently resulting in reversing onto the public

road, and, indeed, likely being severely constrained where parking along the opposite side of the narrow Orchard Lane occurs.

- The proposed scheme is intended to be developed up to its western edge, thereby building to the gable wall of No. 28 Newtown Park, i.e. the appellants' property. The appellants have noted that the eaves of their property over sail its gable wall in the direction of the appeal site. They have expressed serious concern due to the development requiring partial demolition of their roof and where consent has not been provided. I note that the Planner's report on behalf of the planning authority states that the matters raised relating to abutment is a civil matter and is not a planning concern. I would seriously call into question such a conclusion in this instance as the developability of the scheme itself is in question and such a matter would require adequate resolution before consideration of a grant of permission should be contemplated. Clearly, the development as proposed is likely to have potential structural consequences for an established neighbouring property and the matter cannot be avoided in the determination of the application. The Board should note that the existing community building does not abut No.28 and that there are reasonable potential structural concerns for the neighbouring property due to the form of the established eastern gable of the neighbouring structure.

7.2 In conclusion, I note Policy RES3 on residential density, as set out in the current Dún Laoghaire-Rathdown County Development Plan. This policy seeks 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. Having regard to my considerations above, I submit that the proposed development constitutes a gross overdevelopment of this site. It is vastly excessive in density terms for the size of this site, it provides a very poor standard of accommodation for occupiers of the proposed units in terms of amenity, and it has significant adverse consequences for the immediate neighbour by way of structural impacts on the adjoining No. 28 which have not been resolved. Furthermore, it provides inadequate

on-site parking and is likely to cause traffic concerns arising from associated traffic movements onto and off this site on Orchard Lane.

## **8.0 Recommendation**

- 8.1. I recommend that permission is refused in accordance with the following reason and considerations.

## **9.0 Reasons and Considerations**

It is the policy of the planning authority, as set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022, 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 considered that the proposed development would constitute overdevelopment of a restricted site and would comprise an excessive density of development, resulting in a scheme that would be substandard in terms of residential amenity for the occupiers of the scheme by way of the extent of single aspect units with poor orientation, inadequacy of functional private amenity space, and insufficient on-site parking. Furthermore, it is considered that the proposed development would generate problems of vehicular access onto and off Orchard Lane arising from the constrained nature of the site and would result in adverse physical impacts on the structure of the No. 28 Newtown Park due to the proposal to develop up to the gable of that property where a section of the adjoining property's roof oversails the site. The proposed development would, therefore, conflict with the policy of the planning authority, would be substandard for occupants of the proposed scheme, would be seriously injurious to the amenities of property in the vicinity, and would, thereby, be contrary to the proper planning and sustainable development of the area.

---

Kevin Moore  
Senior Planning Inspector

12<sup>th</sup> December 2017