



An
Bord
Pleanála

Inspector's Report

PL06D.249290

Development	Amendments to previously permitted scheme (D15A/0191). Revised layout in the north east corner of residential development currently under construction.
Location	Bird Avenue, Clonskeagh, Dublin 14
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D17A/0223
Applicant(s)	Devondale Limited
Type of Application	Permission
Planning Authority Decision	To Grant Permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Residents of the Maples, Clonskeagh, Dublin 14
Observer(s)	No observers
Date of Site Inspection	4 th December 2017
Inspector	Erika Casey

1.0 Site Location and Description

- 1.1. The subject site comprises an area in the north east corner of a residential development site known as the Hawthorn Estate that is currently under construction under application reference D15A/0191/Appeal Reference PL06D.245621. The site is located to the rear of the Church of the Immaculate Virgin Mary of the Miraculous Medal on Bird Avenue, Clonskeagh.
- 1.2. To the west of the site is a large area of open space comprising playing pitches associated with the CUS Sport Pavilion. To the east and north, are the existing Churchfields and Maples housing developments. These schemes comprise two storey semi-detached dwellings. The open space areas serving the Maples and Churchfields housing developments directly abuts the northern boundary of the subject site. The northern boundary with the Maples comprises a steel palisade fence with thick hedgerow planting and mature trees. The site is accessed from Bird Avenue via the roadway to the CUS Sports Pavilion Grounds.

2.0 Proposed Development

- 2.1. The proposed development comprises amendments to the residential scheme permitted under Reg. Ref. D15A/0191/Appeal Reference PL06D.245621. Under this application permission was granted for 54 no. houses, new vehicular entrance off existing entrance to the CUS Sports Pavilion Grounds on Bird Avenue and all associated works. Condition no. 3 of this decision required a separate planning application to be made relating to the omission of 2 no. dwellings and their replacement with a single detached house, and for amendments to the layout in order to provide for the continuation of the estate road and footpath to the northern boundary of the estate, thereby making provision for a pedestrian connection to the adjoining open space area serving the Maples housing estate.
- 2.2. A separate planning application has been made in relation to the detached dwelling under Reg. Ref. D17A/0189. This application therefore relates to the pedestrian connection to the northern boundary. As submitted, the applicant proposed a footpath to be extended to the boundary with the Maples. It was stated that this provided the potential for a pedestrian connection, although would not function as an access, as it was not intended that the boundary fence be opened. It was noted that

such an opening would result in a dead end due to thick planting on the Maples side of the boundary. The application also provided for the relocation of a bicycle store.

- 2.3. The application was amended at Further Information stage to include a revised site layout plan with the pedestrian footpath extended fully to the northern boundary and a temporary solid gated opening in the existing boundary fence to the Maples residential development.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 To Grant Permission subject to conditions.

Condition 3: required a revised taking in charge masterplan drawing to include the additional pedestrian route to the northern boundary to be submitted.

3.2. Planning Authority Reports

3.2.1. Planning Reports (04.05.2017 and 29.08.2017)

- It is the policy of Smarter Travel, DMURS and the current County Development Plan 2016-2022 (Policy ST5 and ST6) to maximise permeability in the interest of increasing the use of walking and cycling as the mode choice for local trips.
- Future pedestrian access to the Maples (the adjoining residential estate to the north east of the subject site) is considered to maximise permeability in the interest of increasing the use of walking and cycling as the mode choice for local trips, this is both for the existing residents in the Maples and the future occupants of the subject site.
- The temporary solid gated opening in the existing northern boundary with Maples is to be taken in charge by the Council on its completion. It is noted that the area of open space within the Maples is outside the red line boundary of the application site. No proposed works to this area of open space are included in the application. The proposed fixed gate opening will enable future pedestrian permeability. The proposed development will not detract from the residential amenity of the adjoining dwellings.

3.2.2. Other Technical Reports

Transportation Planning (13.04.2017 and 22.08.2017): No objection subject to condition.

Drainage Planning (20.04.2017): No objection subject to condition.

3.3. Prescribed Bodies

- No submissions.

3.4. Third Party Observations

3.4.1 27 observations were made on the planning application and a further 18 submissions on the Further Information response. Issues raised can be summarised as follows:

- Concerns regarding security risks and potential for increased burglaries and antisocial behaviour.
- The access does not comply with the criteria set out in the *Permeability Best Practice Guide* published by the NTA in 2015.
- Reduction in visual amenity and recreational function of existing open space area and potential negative impact on the ecology of the area.
- Lack of consultation with local community.
- Endangerment to young children utilising the open space.
- Will result in overflow car parking to adjacent estates and concern that it may be developed as a vehicular entrance in the future.
- Loss of privacy to existing residents. Green space should not be used for the benefit of another estate.
- The pedestrian access will not enhance permeability.
- Negative impact on property values.
- The pedestrian opening should be extended to the Dundrum Road through Churchfields.

4.0 Planning History

Planning Authority Reference D15A/0191/Appeal Reference PL06D.245621

4.1 This is the parent permission relating to the site. Permission was granted by the Board in February 2016 for a development comprising 54 residential units all situated around a central public space. The proposed development included a new vehicular access to serve the development off the existing entrance to the CUS Sports Pavilion grounds on Bird Avenue.

4.2 Condition 3 is of note and stated:

“The proposed development shall be amended by the omission of the proposed houses on sites number 9 and 10. The area of land thus released shall be reserved for the provision of a single detached house, similar to House Type A1, and for the continuation of the proposed estate road and footpath to the northern boundary of the estate, thereby making provision for a pedestrian connection into the adjoining open space area of the Maples housing estate. Such development shall be the subject of a separate application for planning permission.

Reason: In the interest of encouraging pedestrian permeability within the wider area, in accordance with the provisions of the current development for the area and the Design Manual for Urban Roads and Streets.”

Planning Authority Reference D17A/0189

4.3 Permission granted by Dun Laoghaire Rathdown County Council in April 2017 for a development comprising the omission of the previously proposed two houses on site numbers 9 and 10 and their replacement with a part single, part three storey detached house in the north east corner of the residential development currently under construction, in compliance with Condition 3 of the final grant of permission (An Bord Pleanála Ref. PL06D.245621). Pedestrian and vehicular access to the new dwelling will be provided via the previously permitted road network. Proposals also provide for all associated site development works, including landscaping and connections to environmental services.

Planning Authority Reference D16A/0611

- 4.4 Permission granted by the Council in January 2017 for amendments to D15A/0191 comprising revised treatment to the western boundary of the site with CUS Sports Grounds playing pitches.
- 4.5 It is noted as part of this application at Further Information Stage, a revised site layout plan was submitted which indicated the provision of a possible future pedestrian connection into the adjoining open space area within the Churchfields estate. A 'kissing gate' described as a 1.2 metre high, self closing gate was proposed at the entrance to the proposed link. The following condition was imposed by the Planning Authority:

"That prior to the occupation of the dwellings on site, revised drawings shall be submitted, to the Planning Authority for written agreement, omitting the kissing gate and replacing it with an alternative gate. The proposed gate should be designed to encourage ease of access for both pedestrian and cyclist users, to promote connectivity. Reason: In the interests of encouraging pedestrian permeability within the wider area."

Planning Authority Reference D07A/1775

- 4.6 Permission refused by Dun Laoghaire Rathdown Co. Co. in February 2008 for a development comprising 150 residential units. Reasons for refusal related to issues pertaining to scale and height, overdevelopment, visual impact, lack of public and private open space, traffic and access, legal issues, non compliance with SuDS and Part V etc.

5.0 Policy Context

5.1. Development Plan

- 5.1.1 The operative Development Plan for the area is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The subject site is zoned Objective A: To protect and/or improve residential amenity. Relevant policies include:

Policy ST5: Walking and Cycling: *"It is Council Policy to secure the development of a high quality walking and cycling network across the County in accordance with relevant Council and National policy and guidelines."*

5.1.2 The Plan notes:

“As part of the Development Management process, new development will be required to maximise permeability and connectivity for pedestrians and cyclists to create direct attractive links to adjacent road and public transport networks in accordance with in the ‘Urban Design Manual - A Best Practice Guide’, (2008) and ‘Design Manual for Urban Roads and Streets’ (DMURS) (2013). Where practicable, retrospective implementation of walking and cycling routes - to maximise permeability and connectivity - may also be required within existing neighbourhoods.

Policy ST6: Footways and Pedestrian Routes: *“The Council will continue to maintain and expand the footway and pedestrian route network to provide for accessible pedestrian routes within the County in accordance with best accessibility practice.”*

Section 8.2.3.1 Quality Residential Design: *“It is Council policy to promote high quality design and layout in new residential development. The following criteria will be taken into account when assessing applications:*

- *Quality of linkage and permeability - to adjacent neighbourhoods and facilities and the nature of the public realm/streets and spaces.”*

5.2. Other Policy:

Design Manual for Urban Roads and Streets 2013: Promotes pedestrian movement and permeability and states that the creation of vibrant and active places requires pedestrian activity. This in turn requires walkable street networks that can be easily navigated and are well connected.

Urban Design Manual – A Best Practice Guide 2009: Notes that successful neighbourhoods tend to be well connected to places, facilities and amenities that help to support a good quality of life.

Quality Housing and Sustainable Communities 2007: Notes that footpaths should be provided to facilitate pedestrian movement within and through the scheme and to provide easy and convenient access to facilities and services adjacent to the scheme.

Permeability Best Practice Guide 2015: Provides policy guidance on how best to facilitate demand for walking and cycling in existing built-up areas. This relates to the

retention and creation of linkages within the urban environment for people to walk and cycle from their homes to shops, schools, local services, places of work and public transport stops and stations.

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009: Promotes high quality design and notes that one of the key design principles that should influence the layout and design of streets in residential areas is connectivity and permeability.

5.3. **Natural Heritage Designations**

- None applicable.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- The proposed development is an unacceptable intrusion into the existing open space serving the Maples development and will result in the destruction of boundary railings, hedging and planting between the Maples and proposed Hawthorn housing development.
- The proposed application follows a condition (no. 3) previously attached by the Board in relation to planning application reference D15A/0191/Appeal Reference PL06D.245621. This condition was justified by the Board on the basis of enhancing permeability. However, it will have negative consequences for the residents of the Maples.
- The Hawthorn development is well located in close proximity to public transport and existing amenities. The existing direct route from the development to Bird Avenue provides the future residents with ample connectivity and permeability to the public realm.
- Permeability is not an issue for residents in the Maples as there is access to Bird Avenue from the estate road and a small lane. The proposed boundary breach is of no benefit to residents.
- The development will erode the ecological integrity of the Maples green space. Breaking the boundary will necessitate the removal of hedgerow and mature trees which will impact negatively on the habitats and wildlife present.

- The development contravenes the existing zoning objective as the open space serving the Maples was laid out in proportion to the housing density. Increasing access to the green space to residents of the Hawthorn development will reduce the level of amenity space provided to existing residents.
- There is insufficient parking in the Hawthorn development. Residents will therefore park in the adjacent Maples development and use the proposed pedestrian connection to access their properties. This increase in traffic and parking in the Maples will cause congestion and a traffic hazard.
- The maintenance of the Maples is supported by funding by local residents. It is not intended to provide a private developer with access to the open space in order to intensify the density at Hawthorn.
- The proposal would lead to endangerment of children playing. The current layout of the greenspace has only one exit and wide visibility ensuring children can be easily monitored. An additional entrance will reduce safety.
- The development will result in an increase in crime as the proposed opening provides an excellent means of escape and cover for burglars. The development will result in an increased potential for anti-social behaviour.

6.2. Applicant Response

- The application has been submitted in full compliance with condition 3 of reg. ref. D15A/0191/Appeal Reference PL06D.245651 by providing a gated entrance between the subject development and the Maples allowing for a potential future pedestrian link.
- The subject development comprises the removal of c. 2.35 metres of existing fencing and its replacement with the proposed gate. It is not part of the proposal to remove any of the existing hedgerow or planting to the north as this on lands outside the control of the applicant. Following completion of the gate, this would be taken in charge by the Council.
- The installation of the gate on the northern boundary of the Hawthorn development would help work towards facilitating the potential for improved pedestrian permeability with the wider area. It would, subject to further works to the north, provide a further link and enable residents from the Maples to access

Bird Avenue and beyond through the Hawthorns development. This would provide benefit to existing residents and enhance access to public transport.

- As the proposal does not involve the removal of any existing hedgerow or trees there will be no adverse impact to existing habitats.
- The amount of open space provided in the Hawthorn development permitted under D15A/0191 is not a material matter. There is sufficient open space to serve the development. Furthermore, the parking provision has already been considered and deemed acceptable by An Bord Pleanála in their consideration of the parent permission.

6.3. **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.

6.4. **Observations**

- No observations.

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal 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:

- Principle of Development
- Impact on Residential Amenity
- Appropriate Assessment

7.2 **Principle of Development**

7.2.1 The proposed development to provide for a new pedestrian connection from the permitted residential development to the northern boundary with the Maples housing scheme has been made in direct response to a specific condition attached by the Board in relation to the parent permission. Condition 3 of Reg. Ref.

D15A/0191/Appeal Reference PL06D.245621 required the continuation of the estate

road to the northern boundary thereby making provision for a pedestrian connection into the adjoining open space area of the Maples housing estate.

7.2.2 The rationale for such a condition was to encourage greater pedestrian permeability within the wider area and to comply with the development plan and DMURS. The proposed development provides for such a pedestrian connection. In addition, at further information stage, the council required the applicant to provide a gated entrance along the boundary to facilitate pedestrian access and to remove any potential for a ransom strip at a later stage. It has been noted by the applicant that the gate cannot open into the Maples development due to the presence of thick hedgerow and mature trees on the Maples side. This land is outside the control of the applicant and it is therefore not within their remit to remove this planting. The purpose of the application is therefore to facilitate future potential access. There is no proposal for a hard pathway through the Maples open space area as contended by the appellants.

7.2.3 It is detailed that it is intended that the pedestrian route and gated access will be taken in charge by the Council. It is envisaged, therefore, at some stage, it will be within the remit of the council to undertake the necessary works to facilitate a fully accessible and permeable route.

7.2.4 The creation of enhanced pedestrian connections and permeability is strongly endorsed at both a national and local level. Various policy documents including the *Design Manual for Urban Roads and Streets 2013* and the *NTA Permeability Best Practice Guide 2015* promote pedestrian movement and permeability and states that the creation of vibrant and active places requires pedestrian activity. The NTA guidance notes in particular that creation of linkages and connections can *“enhance the attractiveness of a neighbourhood through the provision of additional useable open space; can increase social interactions by facilitating more activity in the public realm, and can maximise the potential for walking and cycling to a range of services.”*

7.2.5 The proposed development has also provided for potential future connections to the Churchfields development under application reference D16A/0611. This in conjunction with the proposed connection under the current application will provide for a more direct route for residents of the Maples and Churchfields developments to

Bird Avenue and better access to public transport connections and other local facilities and amenities.

7.2.6 In this context, it is considered that the proposed development is consistent with the policies set out in the County Development Plan to encourage greater pedestrian movement as well as those at national level which endorse greater permeability and connectivity between areas. It is considered that the principle of the development is acceptable and is fully in accordance with the proper planning and sustainable development of the area.

7.3 Impact on Residential Amenities

7.3.1 Numerous concerns are raised by the residents of the Maples that the proposed development of a new pedestrian connection between the estate and the Hawthorn development will have a significant adverse impact on the residential amenities of the existing community.

7.3.2 In relation to impacts on habitats and biodiversity, it is noted that the current proposal proposes no removal of existing vegetation, as the removal of such is on lands outside the control of the applicant. As detailed above, it is envisaged that such works may be undertaken at a future stage by Dun Laoghaire Rathdown County Council, once the development is taken in charge. I note that the existing open space has no designations and I do not consider it to be an area of any particular environmental or ecological sensitivity. Any future connection is likely to involve the removal of only a small amount of existing vegetation and is unlikely to have any material significant adverse impact on the existing amenities or ecology of the area.

7.3.3 In relation to concerns regarding antisocial behaviour and increases in crime, it is considered that increased pedestrian movements will enhance opportunities for passive surveillance and thus reduce potential for antisocial behaviour.

7.3.4 It is contended by the appellants that the new pedestrian route would result in an overspill of car parking to the Maples development, as there is insufficient car parking to serve the proposed Hawthorn development. The development permitted under the parent permission comprised 54 dwellings. A total of 47 car parking spaces are provided including 38 allocated spaces and 9 visitor spaces. All of the duplex units are provided with 2 no. spaces and the apartments with 1.5 spaces. Parking provision is in accordance with the Development Plan standards and was

deemed acceptable under the parent permission by the Transportation Department of the Council and by the Board. It was also noted in the Inspector's report that the car parking spaces are provided in a convenient location relative to the apartments they serve and the provision of parking is in excess of the minimum requirements set down under the County Development Plan. Having regard to the foregoing, it is considered unlikely that there will be any significant overspill of car parking to the Maples estate arising from the proposed pedestrian connection.

7.3.5 In relation to open space, it is also a concern of the appellants that the residents of the Hawthorn scheme will have access to and benefit from the open space area in the Maples. The subject development is served by its own public open space which is to be landscaped to a high standard. A total of 1,790 sq. metres of space is provided (12.5% of the site area) split into two areas, a central open space with an area of 1,002 sq. metres and a secondary area of 788 sq. metres identified as a nature walk/play areas located along the southern boundary of the site where it is proposed to retain existing mature trees.

7.3.6 The level and quality of the public open space provision was deemed acceptable by both the Planning Authority and the Board in their consideration of the application. Conversely, residents of the Maples will also have access to this open space should the pedestrian connection become operational. It is considered that such potential linkages between public open space areas is desirable and will enhance the levels of amenity on offer to both existing and future residents. In this context, I am satisfied that the proposed pedestrian connection and gate will facilitate a future permeable route between the two estates which will enhance connectivity and have no significant adverse impacts on the residential amenities of the area.

7.4 **Appropriate Assessment**

7.4.1 Having regard to the nature and scale of the proposed development, comprising a new pedestrian connection in an existing boundary fence within an established urban area on zoned and serviced land, and the 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 objectives to encourage pedestrian permeability within the wider area set out in the current County Development Plan, and the guidance regarding enhancing permeability and connectivity in the Design Manual for Urban Roads and Streets and the Permeability Best Practice Guide, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. 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 plans and particulars submitted on the on the 4th 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. The applicant shall comply with all conditions of the previous permission covering the wider development area (Reg. Ref. D15A/0191/Appeal Ref. PL06D.245621), unless required to do so otherwise by any condition attached to this permission.

Reason: In the interest of clarity.

3. Prior to the occupation of the development, the applicant shall submit a revised Taking in Charge Masterplan drawing to be agreed in writing with the Planning Authority to include the proposed pedestrian access route to the northern boundary, boundary fence and gate.

Reason: In the interest of the proper planning and sustainable development of the area.

Erika Casey

Senior Planning Inspector

5th December 2017