



Development

Permission for development. The development will comprise modifications to permission DLR Reg. Ref.: D13A/0490 (ABP Ref. PL06D.242786) (also subject to concurrent modification application DLR Reg. Ref.: D17A/0513 on the remainder of lands) as follows:

Demolition of (2-storey, 4-bed, semi-detached house, c.170sq.m) and construction of a 3-storey, 5-bed, detached house plus 2-bed granny flat (c.302sq.m); Revision to permitted redesign of no 8 Taney Road from 2-storey, 4-bed, semi-detached house (c.216sq.m) to 3-storey, 5-bed, detached house (c.236sq.m). Revision to 2 no. permitted House Type E (2-storey, 4-bed, detached houses each c.126sq.m) to 1 no. House Type E1 (3-storey, 4-bed, detached house c.148sq.m) and 1 no. House Type D1 (3-storey, 4-bed, detached house, c.143sq.m); Revised design to 2 no. permitted House Type D units (3-

storey, 4-bed, detached houses, c.132sq.m) to 1 no. House Type D1 and 1 no. House Type D2 (each 3-storey, 4-bed, detached houses, c.143sq.m); Provision of 2 no. additional houses comprising House Type D1 and D2 units (3-storey, 4-bed, detached houses, c.143sq.m each); All associated site development works, services provision (including ESB cabinet), access, car parking, open space and boundary treatment works; All other works as permitted under DLR Reg. Ref.: D13A/0490 (ABP Ref. PL06D.242786).

Location

at a site c. 0.315 ha comprising Nos. 6 & 8 Taney Road, Former Taney Nurseries, Dundrum, Dublin 14.

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D17A/0747

Applicant(s)

Anne O' Dwyer and Declan Taite (Receivers)

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Helen and Neil McCarthy

Observer(s)

None

Date of Site Inspection

17th April 2018

Inspector

Emer Doyle

1.0 Site Location and Description

- 1.1. The subject site is located on Taney Road, Dundrum in Dublin 14 and has an area of 0.315 ha. It comprises part of the site of the former Taney Nurseries together with No. 6 Taney Road. The site is surrounded by mature residential developments of mixed designs. The general pattern of development in the area is suburban and low density.
- 1.2. Additional lands also comprising of the former Taney Nurseries are outlined in blue on the site layout map. These lands are the subject of a current appeal to ABP (PL06D.249113).

2.0 Proposed Development

- 2.1. The proposed development comprises of the following modifications to the original scheme granted on the site – D13A/0490 (PL06D.242786) as follows:
 - Demolition of existing dwelling at No. 6 Taney Road and construction of 3 storey, 5 bed detached house together with a 2 bed granny flat. The site of No. 6 was not in the original plot.
 - Change of house design of No. 8 Taney Road from 2 storey, 4 bed semi-detached to 3 storey, 5 bed detached house.
 - The original scheme provided for 4 No. detached dwellings- Types D and E.
 - The current scheme provides for 6 No. detached dwellings- Types D1, D2, H, G, and E1.
 - Types D1, D2, E1, and H are 4 bed three storey detached dwellings.
 - Type G is a 3 bed three storey detached dwelling.
- 2.2. Revised drawings and details were submitted dated 22nd January 2018 in response to the Further Information Request as follows:

- Changes to width and length of units 3-5.
- Unit 6 changed from D1 unit to Type H unit.
- Unit 7 changed from Type D2 to Type G.
- The plot boundaries of units 3-8 have been revised.
- 2 No. car parking spaces are provided for each dwelling.
- Surface Water drainage details.

3.0 Planning Authority Decision

3.1. Decision

To grant permission subject to 13 No. conditions. Conditions of note include the following:

- Condition No. 2 required that the proposed 'annex' unit, associated with Unit 1, shall be occupied by a member of the immediate family of the occupier of the main dwelling, and the link to that dwelling shall be maintained. Should the use of the flat cease, it shall be incorporated into the main dwelling. The 'annex' unit shall be used as a separate dwelling with its own curtilage, and shall not be sold or let as a flat independent of the main dwelling.
- Condition 3 required that prior to commencement of development, drawings/details showing the provision of an uncontrolled pedestrian crossing of the development access road for pedestrians walking along the footpath of Taney Road.

All other conditions are of a standard nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Rear gardens are in accordance with Development Plan standards.
- Revised designs are similar to D17A/0513.
- Units 6 and 7 fall short of car parking requirements.
- The proposed modifications to house types are acceptable and will result in no further concerns in relation to the residential amenity of surrounding neighbours.
- Density, whilst low, is an increase on previous density permitted by ABP.

3.2.2. Other Technical Reports

Surface Water Section

- Further Information was requested in relation to a number of items. The response received was considered to be satisfactory and permission was recommended subject to conditions.

Transportation Planning

- Further Information was requested in relation to a number of items. The response received was considered to be satisfactory and permission was recommended subject to conditions.

Housing Section

- It is noted that the applicant proposed to comply with Part V by way of transfer of 3 units. This is satisfactory subject to agreement being reached on development costs and land values.

Irish Water

- No objection subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

Two objections were received. The issues raised are similar to those raised in the appeal.

4.0 Planning History

I consider that the most relevant planning history is as follows:

PA Ref. D13A/0490/ ABP Ref. PL06D.242786

Permission sought for 30 houses on a larger site including lands to the rear and excluding No. 6 Taney Road. Permission also sought for alterations and extensions to No. 8 Taney Road. Permission refused by Planning Authority and granted on appeal to the Board.

PA Ref. D17A/0513/ ABP REF. PL06D.249113

Permission sought for modifications to D13A/0490 to include the construction of 25 No. houses on a smaller site than previously proposed under D13A/0490/ ABP PL06D.242786. Changes are proposed to the design of the permitted house types and all house types proposed are three storey in height. A split decision was issued by the Planning Authority which refused permission for the reconfiguration of the layout which would reduce the density of the overall development to 29 dwellings per

hectare as it was considered that this was wasteful of serviced land and contrary to the Development Plan and the DoEHLG Guidelines. Permission was granted subject to conditions for the modifications to units. Condition 2 is of note: 'The proposed reduction in density would materially contravene Policy RES3 'Residential Density' of the Dun Laoghaire Rathdown County Development Plan (2016-2022) and Section 5.8 of the Sustainable Residential Development in Urban Areas (DoEHLG 2009). In this regard, the modifications proposed in the area highlighted by the 'revisions cloud' on Drawing Number XT-D 450-002 (Proposed Site Layout), shall not form part of this permission and the layout and unit design at this location shall be retained as per that permitted under D13A/0490, unless modified by a separate planning permission or by An Bord Pleanála on appeal. All external finishes to harmonise in colour and texture with the existing premises.'

This application is currently on appeal to ABP.

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 Policy RES3: It is Council policy to generally promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing

5.2. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

The third party appeal by Helen and Neil McCarthy can be summarised as follows:

- Concern regarding overlooking and impact on residential amenity.
- A revised layout should be considered so that a minimum of 22m is attained between dwellings. A drawing of a 'possible design solution' is included in the appeal.
- There are three mature trees which lie on the boundary between both properties – these should be protected by condition.

6.2. Applicant Response

- Good separation distances are achieved.
- The rear lines of the buildings are largely the same as granted under D13A/0490.
- The minimum standard of 22m applies to directly opposing rear first floor windows and there are no directly opposing windows with Robin Hill.
- All garden sizes exceed the private open space requirements of Section 8.2.8.4 of the Development Plan.
- Mitigation measures have been included in the design of dwellings to ensure no overlooking takes place.
- The parent permission makes no reference to retention of trees.

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**

- None.

7.0 **Assessment**

7.1. The main issues are those raised in the appeal. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Impact on Residential Amenity
- Compliance with Development Plan Standards
- Density
- Other Matters
- Appropriate Assessment

7.2. **Impact on Residential Amenity**

- 7.2.1. The main concern raised in relation to impact on residential amenity relates to overlooking.
- 7.2.2. The appellants live in a low profile single storey dwelling adjacent to the site. The new house types proposed comprise of three storey dwellings.
- 7.2.3. In my view, the most critical locations where overlooking could occur is from units 6, 7 and 8 – House Types H, G and E1 in revised drawings dated the 27th November 2017 in response to the Further Information Request.
- 7.2.4. House Types G is three storey. The first and second floors are set back a distance of 2.34m from the ground floor. There is one window only on the rear first floor elevation which serves a bathroom. House Type H is three storey. Similarly, the first floor is set back 2.34m from the ground floor. There are three windows at first floor level- one serving a stairs, one serving a bathroom, and one serving a bedroom. House Type E1 is three storey. There is a small bathroom window at first floor level.

- 7.2.5. I consider that the designs have been mindful of overlooking neighbouring dwellings. The appeal response states that 'mitigation measures including the orientation of dwellings, configuration of secondary rooms to the rear of the dwellings, use of obscure glazing, and omission of windows at 2nd floor level ensure a high level of residential amenity and privacy is achieved and the adjoining Robin Hill premises is not overlooked.'
- 7.2.6. I have examined the parent permission granted on the site under ABP Ref. 06D.242786. The site layout of the current application indicates in purple the area where dwellings were previously proposed. There is minimal difference in the layout of units 6, 7, and 8. In my view, there is less overlooking than the parent grant of permission having regard to the revised designs. The previous designs permitted under the parent permission (House Types D and E) provided for bedrooms with windows at first floor level rather than bathrooms now proposed for the majority of the dwellings.
- 7.2.7. House Type H on site No. 6 is the only design where a bedroom window is provided to the rear at first floor level. I note that the appeal submits an alternative design for House Type H which provides for the relocation of the first floor bedroom window to the side of the dwelling. It is also stated that this could be redesigned to a high level only. I am of the view that minimal overlooking would occur from unit 6 due to the layout of both unit 6 and the bungalow on the adjacent site as there are no directly opposing first floor windows and as such, I consider that the design submitted dated the 27th of November 2017 with the Further Information Response is acceptable.
- 7.2.8. Having regard to the character and pattern of development in the area, I consider that the development is acceptable and that it would not detract from the residential amenities of adjacent properties by reason of overlooking.

7.3. **Compliance with Development Plan Standards**

- 7.3.1. Two issues are raised in relation to compliance with Development Plan standards. The first issue relates to distances of 22m between opposing windows and the second issue relates to garden sizes.

- 7.3.2. I note that the appeal requests that ABP ‘ask the applicants to reconsider the layout of the development so that a minimum of 22m is attained between dwellings and between windows and the boundary.’
- 7.3.3. The 22m standard only applies where windows of habitable first floor rooms directly face each other. This does not apply to this site as the proposed dwellings would overlook a bungalow and there are no instances of habitable first floor rooms directly facing each other. Indeed, I am of the view that the designs have been very carefully considered so that there are minimal windows of habitable rooms on rear elevations of all the house types other than House Type H.
- 7.3.4. Section 8.2.8.4 sets out the minimum requirements for private open space. Three bedroom houses must have a minimum of 60 sq. m and houses of four bedrooms or more must have a minimum of 75 square metres. Garden sizes range from 64 metres squared (three bedroom – type G unit 7) to 116 metres squared and all gardens comply with the Development Plan requirements.

7.4. **Density**

- 7.4.1. The issue of density has not been raised as an issue in this appeal, however, it has been a very important issue in previous applications on the site.
- 7.4.2. In the parent permission (D13A/0490 (PL06D.242786)), the Planning Authority expressed concern regarding the very low density on the site and recommended refusal, however the Board granted permission on appeal. The Planning Authority issued a split decision on a subsequent application for modifications (D17A/0513/ PL06D249113) granting permission for part of the application and refusing permission for modifications proposed in the area highlighted by the ‘revisions cloud’ as this would reduce the density of the overall development to 29 dwellings per hectare. This application is currently on appeal to the Board.
- 7.4.3. The current scheme enlarges the site to include No. 6 Taney Road and 6 units are proposed in addition to alterations to No. 6 and No. 8 Taney Road. The parent permission provided for 4 new units in this part of the site. I also note that one additional unit is proposed in the lands subject to the separate planning application (D17A/0513/ PL06S.249113).

- 7.4.4. The planner's report states that 'with the addition of No. 6 Taney Road, the overall site is now 1.025ha and the density proposed is now 32.2 dwellings per hectare. It is stated that whilst a far greater density could be achieved, given its proximity to the Luas Line and Dundrum Village, the small increase is welcomed.'
- 7.4.5. The density granted in the parent permission was 30 dwellings per hectare. Whilst, I concur with the comments made by the planner that a far greater density could have been achieved on this site, I am satisfied with the density proposed having regard to increase on the previous applications and the history of the site.

7.5. **Other Matters**

- 7.5.1. The appeal refers to three mature trees on the boundary and asks for them to be protected by condition. I note that these trees are not protected in the Development Plan and the parent permission makes no reference to the protection of trees. I do not consider it necessary to include a condition to protect these trees.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development, modifications to an existing permitted residential development within an established urban area, 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**

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

9.0 **Reasons and Considerations**

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 submitted on the 27th day of November 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 out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Save for amendments granted on foot of this permission, the development shall otherwise be carried out in accordance with the terms and conditions of Planning Permission Reg. Ref. D13A/0490 (PL06D.242786) save as may be required by other conditions attached hereto.

Reason: In the interest of clarity.

3. The proposed granny flat associated with Unit 1, shall be used solely for that purpose and shall revert to use a part of the main dwelling house on cessation of that use.

Reason: To protect the amenities of property in the vicinity.

4. Details of an uncontrolled pedestrian crossing of the development access road for pedestrians walking along the footpath on Taney Road shall be submitted to

and agreed in writing with the Planning Authority prior to commencement of development.

Reason: In the interest of pedestrian safety.

4. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

5. 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. proposed

granny flat associated with Unit 1, shall be used solely for that purpose and shall revert to use a part of the main dwelling house on cessation of that use.

Reason: It is a requirement of the Planning and Development Act 2000 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

Planning Inspector

31st May 2018