



An
Bord
Pleanála

Inspector's Report ABP 300816-18

Development	Demolition of existing house and construction of 8 no. own door duplex apartments in a two and a half storey block. All associated site works and services. Modifications to existing vehicular access to provide vehicular and pedestrian access off Sandyford Road.
Location	'Stockwell', Sandyford Road, Dundrum, Dublin 16.
Planning Authority	Dun Laoghaire Rathdown County Council.
Planning Authority Reg. Ref.	D17A/0804.
Applicants	Gerard Keogh.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party.
Appellants	Leonard & Janet Fitzpatrick and Tristan Lloyd & Sinead O' Leary.

Observers

Jim & Mary Hayes.

Date of Site Inspection

26th July 2018.

Inspector

Dáire McDevitt

1.0 Site Location and Description

- 1.1 The application site is located on the western side of Sandyford Road in Dundrum, Dublin 16. It is c.500m south of Dundrum Town Centre, c.700m southwest of Balally Luas stop and c. 200m north of Balally Park. The immediate area is predominantly residential. The eastern side of Sandyford Road is characterised by two storey dwellings. There is a mix of detached houses on individual plots, ranging in height and design, to residential estates of two storey houses along the western side.
- 1.2 There is an existing detached bungalow (Stockwell) on the site, with a stated area of c.0.13 hectare, with sheds to the rear of the house. The site is overgrown with the house and sheds in a state of disrepair.
- 1.3 The site is bounded by block walls to the north, west and south with a stone wall forming the existing roadside (eastern) boundary. To the north, an area of public open space (zoned under land use objective F) off Dun Emer Park and semi-detached two storey houses which front onto Dun Emer Road, bound the site. To the south, accessed off the Sandyford Road, is a detached dormer 'Masada' (appellant's house). There is a detached two-storey dwelling, No. 4 Ballyolaf Manor (appellant's house) bounding the site to the west, which forms part of Ballyolaf Manor housing estate.
- 1.4 The property is served by an existing entrance, c. 20m south of the signal controlled junction of the Sandyford Road and Dun Emer Road. The application includes proposals to modify this entrance to provide a vehicular and pedestrian access. Footpaths and cycle paths run along both sides of Sandyford Road at this point. Bus stops are present on both sides of the road in the immediate vicinity of the site.

2.0 Proposed Development

2.1. Permission is sought for the demolition of the existing house on site and the construction of 2.5 storey block consisting of 8 no. own door duplex apartment units on a site with an overall area of c. 0.13 hectares.

- Heights range from c. 6m to c.9m with the upper floor is set back from the side boundaries. A standing seam roof is proposed with dormer windows to the front and rear elevations.
- External access stairs to the front elevation with balconies at first floor level serving three units. The remainder of the balconies are to the rear, including one corner balcony.
- External finishes include render, brick and zinc finishes with obscured glazing to balcony screens.

The development also includes:

- 2 areas of public open space (c.188sq.m and c.250 sq.m). A total area of c. 438sq.m.
- Bin store, cycle and carparking, landscaping and boundary treatment.
- Vehicular and pedestrian access off Sandyford road.

The following documentation was included:

- Cover letter.
- Landscape Report and plan.
- Traffic Report.
- Environmental Services Report.
- Shadow Analysis.
- Comparative drawing showing current proposal and previous applications.

2.2 Further Information Response

Information submitted in response to 12 points raised by the Planning Authority relating to appropriate assessment, Part V, traffic/access/signage, parking (cycle/motorcycle/car) and a construction management plan.

Documentation submitted included:

- Construction Management Plan.
- Traffic Report.

2.3 Unit Mix

The scheme has the following mix of units:

- 4. no. 1 bed units as follows:
 - 1 no. type A (gfa c.66 sq.m).
 - 2 no. type B (gfa c.61.6sq.m).
 - 1 no. type D (gfa c.72.1sq.m).
- 3 no. 2 bed units as follows:
 - 1 no. type C (gfa c.91.8sq.m).
 - 2 no. type E duplex (gfa c.106.2sq.m)
- 1 no. 3 bed duplex (gfa c.131.6 sq.m).

3.0 Planning Authority Decision

3.1. Grant permission

Subject to 20 standard conditions, including:

Condition No. 9

The 1.8 metre high first floor rear/south west balcony screen for Unit 8 shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of a film to the surface of clear glass is not acceptable.

Reason: *In the interest of residential amenity of the adjoining property.*

3.2. Planning Authority Reports

3.2.1. Planning Reports (27th October 2017 and 4th January 2018)

This formed the basis of the Planning Authorities decision. The main issues raised in the report related to the differences between the current proposal and those refused previously by the Planning Authority and An Bord Pleanala.

The impact of the development on the residential amenities of adjoining properties, in particular overlooking, overshadowing and overbearing impacts arising from the height and design of the apartment block.

Following an extensive further information request which generally reflected the requirements of the Transportation Planning Section. Information was submitted that dealt with the outstanding issues to the satisfaction of the Area Planner and a recommendation to grant permission issued.

3.2.2. Other Technical Reports

Transportation Section (31st October 2017 and 12th December 2017).

No objection following the submission of further information that addressed the concerns raised in the report of the 31st October relating to access, parking and traffic management.

Drainage Section (20th December 2017). No objection subject to conditions.

3.3. Prescribed Bodies

Irish Water (1st November 2017). No objection.

3.4. Third Party Observations

15 submissions were received by the Planning Authority, these included submissions by the appellants and the observers. The issues raised are broadly in line with the grounds of appeal and observations and shall be dealt with in more detail in the relevant sections of this report.

The main issues can be summarised as follows:

- Adverse impact in the visual and residential amenities of adjoining properties.

- Concerns relating to impact on existing sewers and potential damage/blockages.
- Traffic hazard arising from increased traffic movements associated with the development.
- A history of poor ground bearing capacity in the vicinity of the site.
- Nearby bungalow (Woodview) was refused permission for a two storey extension.
- Poor private and public open space provision.
- Flooding concerns.
- Excessive density.
- Trees in the vicinity should be protected.
- Existing house should not be demolished.
- Adverse impact on property values in the area.

4.0 Planning History

There is extensive planning history associated with the site.

Planning Authority Reference No. D16A/0709 (An Bord Pleanala Reference No. PL.06D.247711) refers to a 2017 decision to **refuse** permission for a development of 9 apartments in a three storey block with similar access arrangements to the current application. Permission was refused for the following reason:

Having regard to the design, form, scale and layout of the proposed development, the location of the proposed apartment block relative to adjoining lower scale detached dwellings, the restricted separation distances between the proposed block and adjoining residential properties, the loss of privacy arising from overlooking and the overbearing impact arising from its proposed siting, it is considered that the proposed development would seriously injure the residential amenities of adjoining properties and would

depreciate the value of these properties. Furthermore, it is considered that the layout of the proposed development, culminating in expansive parking and access roadway areas and the provision of substandard qualitative functional open space, would provide a substandard form of accommodation for future occupiers in terms of residential amenity. The proposed development would, therefore, give rise to a poor standard of development and would, therefore, be contrary to the proper planning and sustainable development of the area.

Planning Authority Reference No. D15A/0068 (An Bord Pleanála Reference No. PL.06D.245741) refers to a 2016 decision to **refuse** permission for a development of 11 apartments in 2 blocks for two reasons. The first related to traffic safety arising from traffic movements associated with the development and the proximity of the entrance to a signalised junction. The second reason was similar to that of PL.06D.247711 relating to overbearing impact arising from the siting of the proposal, its height and scale, overdevelopment of the site and poor quality development.

Planning Authority Reference No. D14A/0135 refers to a 2014 decision to **refuse** permission for 3 no. two and a half storey dwellings on the grounds that construction would occur within 1m of a 525mm diameter surface water sewer with less than the minimum 6m wayleave requirement.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown County Development Plan 2016-2022

The site is zoned under Land Use Objective 'A' with a stated objective '*to protect and/or improve residential amenity*'.

RES3: refers to the density requirements for the county. Higher densities at a minimum of 50 units per hectare will be encouraged where a site is located within a 1km pedestrian catchment of a rail station. Luas line, BRT priority 1

QBC and/or 500 metres of a Bus Priority Route, and/or 1 km of a town or District Centre.

Relevant Development Management Standards

Section 8.2.3.3 refers to apartment developments and standards required in relation to (i) design, (ii) dual aspect, (iii) mix of units, (iv) separation between blocks), (v) internal storage, (vi) penthouse development, (vii) minimum floor areas, (viii) public, private and communal open space standards and (ix) play facilities.

Section 8.2.8.4 (ii) refers to separation distances of 22 metres between upper floor opposing windows. Reference is also made to garden depth of 11 metres.

Section 8.2.8.4 (iv) refers to private open space requirements for apartments.

Section 8.2.4.5 refers to carparking standards for apartments.

5.2 Guidelines

Sustainable Urban Housing: Design Standards for New Apartments Guidelines. (DECLG 2015). These provide recommend minimum standards for floor areas for different types of apartments; storage spaces; sizes of apartment balconies/patios and room dimensions for certain rooms.

Sustainable Urban Residential Development Guidelines (DoEHLG 2009) and its companion, the **Urban Design Manual - A Best Practice Guide (DoEHLG 2009).** These include detailed advice on the role of Urban Design and planning for new sustainable neighbourhoods. In cities and larger towns, appropriate locations for increased densities, are identified, including outer suburban greenfield sites and public transport corridors.

(i) Infill residential development

Potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a

multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The local area plan should set out the planning authority's views with regard to the range of densities acceptable within the area.

Quality Housing for Sustainable Communities (DoEHLG 2007). These are intended to assist with the implementation of initiatives for better homes, better neighbourhoods and better urban spaces. Detailed space requirements are set out and room sizes for different types of dwellings.

5.3 Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal has been received from:

Leonard & Janet Fitzpatrick, 'Masada', Sandyford Road, Dundrum, Dublin 16 (adjoining house to the south) and **Tristan Loyd & Sinead O'Leary**, No.4 Ballyolaf Manor, Dundrum, Dublin 16 (adjoining house to the west). The main grounds of appeal can be summarised as follows:

The current appeal has failed to address the previous reasons for refusal under PL.06D.247711. The appellants acknowledge that while changes to the design have resulted in a reduced footprint, key elements of the design are similar to the previously refused development or, indeed likely to result in more significant negative impacts than the previous development would have done.

6.1.1 Design

- The current proposal is similar in height and scale to those refused permission under PL.06D.245741 and PL.06D.247711. Given the

reduced set back from the southern boundary (Masada) and northern boundary (Dun Emer Road), it is considered that the potential for negative impacts on neighbouring residents due to overbearing is likely to be greater than under previous schemes.

- The excessive height, scale and bulk and the variety of roof treatments proposed would render the subject development both jarring and overbearing in views from both the public realm at Sandyford Road and from the houses and gardens in close proximity to the application site. In particular the houses to the south and west due to the proximity of the development to the site boundaries.
- The oppressive and overbearing appearance of the proposal would be exacerbated by the incongruous roof profile and the height (3 storeys) of the development in an area of low rise and relatively homogeneous character.

6.1.2 Residential Amenity.

- It would result in significant overlooking of all properties bounding the application site due to the limited set back from the boundaries and the presence of windows and balconies at first and second floor level.
- Overall the proposal has failed to address the previous An Bord Pleanala reason for refusal. The number of windows at sensitive locations has increased and the development moved closer to the boundaries.
- No daylight access impact analysis was submitted with the application.
- No details have been submitted regarding lighting for entrances, roads or carpark. Concerns have been raised that the proposal would have a negative impact on adjoining properties through glare, light trespass or sky glow emanating from the scheme.
- Section 8.2.8.3 sets out that 'narrow linear strips of open space will not be acceptable'. The narrow width and/or configuration, the public open space would be poor in terms of usability and would not provide for active and passive recreation, particularly as these areas would be

further reduced by tree and shrub planting included in the landscape plan. The area to the east is of poor quality and not suitable for use by children due to its proximity to the car park. The development would result in a substandard form of accommodation for future residents due to the provision of inadequate communal open space.

- Poor standard of private open space proposed and the use of c.1.8m high opaque privacy screens reduces the amenity value of the balconies. In addition, the majority of the balconies, face within 90 degrees due north, and therefore do not have a reasonable expectation of sunlight.

6.1.3 Traffic

- Access is the broadly in line with the PL.06D.245741 and PL.06D.247711 proposals, which were considered unacceptable by the Inspectors for a development of 11 and 9 units respectively.
- An Bord Pleanála Ref. No. PL.06D.245741 included a reason for refusal on traffic grounds. The Inspector in their report for PL.06D.247711 recommended a reason for refusal on the grounds of traffic safety. This was not included in the Boards final decision.
- The appellants are of the view that the location of the proposed entrance and increase in traffic movements would result in a conflict between pedestrian, cyclist and cars at this point, adjoining the access to Dun Emer Road which has a signalised junction. Therefore, endangering public safety by reason of a traffic hazard.
- The provision of 11 carparking spaces for a 27 bed space development, includes no provision for visitor parking. Resulting in a likely overflow onto adjoining roads, causing a nuisance for local residents.

The appellants are of the opinion, having regard to the predicted loss of privacy due to overlooking, loss of visual amenity and overbearance, loss of daylight and traffic hazard predicted to occur due to proximity, height and scale of the proposal relative to adjoining residential properties. That the

proposed development would significantly reduce the residential amenity of the residents of the Sandyford Road environs in an area zoned for the protection and improvement of residential amenity under the County Development Plan 2016-2022 and will likely depreciate the value of these properties.

6.2. Applicant Response

This is mainly in the form of a rebuttal. Points of note include:

6.2.1 Design

- The height and design of the single block, which is similar to the height of existing houses on adjoining sites, would not result in a visually overbearing impact from adjacent residential properties.
- Many of the issues raised in the appeal submission have been considered in detail by the Planning Authority at application stage.
- The proposal meets an important planning objective articulated at both national and local levels to achieve additional residential development within the existing built up area of Dublin city and suburbs, particularly in areas that are well served by public transport.

6.2.2 Residential Amenity.

- The proposed development, an infill development in an established residential area, protects the existing residential amenities by having no windows to sensitive elevations and by achieving accepted minimum separation distances to adjoining rear gardens.
- Any potential residual overlooking is prevented by the provision of balcony screens. This is an accepted form of privacy protection where infill developments are proposed. The applicant has stated that he has no objection to a planning condition regarding the design and maintenance of these screens.

- Private and communal open space is provided in excess of the County Development Plan standards.
- The development would not reduce day light provision to adjoining houses.

6.2.3 Traffic.

- The proposal would not constitute a traffic hazard. The appellants have not substantiated their claim with supporting evidence. This issues was considered in the previous applications and access arrangements were found to be acceptable.
- Adequate car parking for residents and visitors is provided on site in accordance with the County Development Plan requirements.

6.3. Planning Authority Response

This can be summarised as follows:

- The grounds of appeal refer to the south east corner of the development when referring to overlooking of the rear garden of Masada. Any overlooking in this direction is oblique and no different to the type of passive overlooking that occurs in effectively every housing developments.
- Separation distances of a minimum 11m are achieved from the proposed development to No. 4 Ballyolaf Manor to the south west.
- To require increased separation distance would set an undesirable precedent for development such as the proposed development, which will increase density in an area within close proximity of a major town centre and a luas line.
- Separation distance from the rear elevation of the houses along Dun Emer Road are in excess of the standard 11m and would not result in undue overlooking. It would provide passive surveillance to the adjoining public open space which currently has none.

- It is not feasible to retain a single storey detached house on this site in an urban location, when an acceptable scale of redevelopment is proposed. The development will not be incongruous or overbearing. It will have a negligible impact on houses on the opposite side of Sandyford Road, which are c.35m, away across a public road.
- Although the appeal references the impact on loss of daylight, no supporting documentation has been submitted.
- Contrary to the assertion in the appeal that development would result in substandard accommodation the following is noted:
 - (i) 280sq.m public open space is required (section 8.2.8.2 (i)). The provision of c. 438sq.m in two separate areas, both of which are overlooked by all 8 apartments, is considered adequate.
 - (ii) Proposed private open space provision is also adequate and would not result in a 'caged' effect as claimed.
- The development does not propose a 'new access road opening onto Sandyford Road'; this vehicular entrance already exists. The Transportation Section assessed the application and considered it to be acceptable from a traffic perspective.

6.4. Observations

An observation has been received from Jim & Mary Hayes, No. 6 Dun Emer Road, Dundrum, Dublin 16. This can be summarised as follows:

Density:

- The density is too high, additional housing would put pressure on the existing public transport in the area.
- A smaller development would be more suitable for this site.

Residential Amenity:

- Concerns that the use of the balcony directly facing the back of No. 6, could lead to noise nuisance.

Trees/hedgerow removal:

- The development does not comply with section 8.2.8.6 of the Development Plan as the re-routing of a 450mm surface water pipe at a depth of 1.7m would require extensive excavation works resulting in the removal of the hedgerow between Stockwell and Dun Emer's open space.
- The observer requests, in the event permission is granted, that a condition be attached requiring that the Ash Tree (1m from the boundary) and a Birch Tree c.3.5m from the boundary on the Dun Emer side) be protected and retained.

Traffic:

- The development would result in a traffic hazard due to the proximity of the entrance to the Dun Emer traffic lights. Resulting in a conflict between cars turning in and out of both entrances at the same time.
- Dun Emer has 10 Pay & Display parking space to serve the needs to 42 houses. Due to the limited visitor parking proposed within the site. The proposal would result in an overflow and use of the car parking spaces along Dun Emer Road by visitors to the proposed apartments.
- Noise from the car park would have a negative impact on the residential amenities of the houses bounding the site.

7.0 Assessment

7.0.1 Permission was refused in 2016 under PL.06D.245741 for 11 apartments and in 2017 under PL.06D.247711 for 9 apartments. The reason for refusal under PL.06D.247711 related to the design, form, scale and layout of the development, its proximity to boundaries resulting in loss of privacy, overlooking and overbearing impact, that would detract from the residential amenities of adjoining properties. And that the expansive parking and access road along with the substandard functional open space provision would result in a substandard form of accommodation for future occupiers.

7.0.2 As noted under the two previous appeals for this site, a wide range of issues have been submitted by the appellants and observers. Many of these issues would have been the subject of consideration by the Board as recent as 2016 and 2017.

7.0.3 The current proposal in an attempt to overcome the 2017 reason for refusal, is for a development consisting of 8 no. own door duplex units with broadly similar access proposals as previous applications. The grounds of appeal are broadly reflective of the issues considered by the Board to be of concern previously, namely impact on residential amenity, and overdevelopment. The issue of traffic shall also be addressed. The issue of appropriate assessment and environmental impact assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Overdevelopment.
- Design.
- Residential Amenities.
- Traffic.
- Other.
- Appropriate Assessment.
- Environmental Impact Assessment.

7.1 Overdevelopment

7.1.1 The site is currently occupied by 'Stockwell', a detached single storey house with detached sheds, which are in a state of disrepair. The proposal includes the demolition of Stockwell (gfa c. 88.24sq.m) and ancillary sheds and the construction of a two and a half storey apartment block (c.835 sq.m) containing a total of 8 units with surface carpark and c.438sq.m of public open space on a site with an overall area of c. 0.13 hectares.

7.1.2 The observers have raised concerns that the proposal would constitute overdevelopment of the site and that a smaller scheme would be more appropriate. The grounds of appeal have raised concerns regarding the quantity and quality of communal open space proposed.

7.1.3 The Dun Laoghaire Rathdown County Development does not prescribe plot ratio or site coverage. The Planning Authority refers to densities and the relevant design and development management standards when assessing the level of development permissible on the site.

7.1.4 RES3 of the current County Development Plan sets out the Council's policy relating to residential density. It notes that a minimum net density of 50 dwellings per hectare should be applied within public transport corridors, which are defined as including sites within a 1 km pedestrian catchment of a Luas stop.

7.1.5 A density of c.61.5 units per hectare (8 apartments) is proposed. I consider, given the location of the site on lands zoned under land use objective 'A' and its proximity to the Balally LUAS stop (c.700m), that the proposed density is acceptable subject to compliance with the development management standards for residential developments and the protection of the residential amenities of adjoining properties.

7.1.6 I note that the site is bounded to the south by 'Masada', a low profile dormer dwelling. To the west is Ballyolaf Manor, a development of two storey

houses, with No. 4 bounding the appeal site. To the north is Dun Emer housing estate which consists of two storey semi-detached houses. In my view, the proposed development would generally reflect the massing and height of the structures in the immediate vicinity. I am satisfied that the apartment block can be accommodated on the site and that the impact of the proposal would not constitute over development of the site.

7.1.7 Section 8.2.3.3, 8.2.4 and 8.2.8 of the County Development Plan set out the design and development management standards for apartment developments. These includes reference to design, open space provision, private amenity space, etc. I am satisfied that the proposed scheme broadly complies with the standards as set out in the Development Plan for a development of this scale.

7.1.8 The development as proposed complies with RES3 of the Development Plan and Section 5.8 of the Sustainable Residential Development in Urban Areas Guidelines.

7.2 Design

7.2.1 The current proposal is an attempt to overcome the previous reason for refusal under Planning Authority Reference No. D16A/0709 (An Bord Pleanála Reference No. PL.06D.247711). The main difference between the current proposal and that refused in 2017 is that the scheme has been reduced from 9 apartments within one block with a central access to 8 units, all with own door access. The building has been reduced from c.944sq.m to c.835sq.m. The overall height, bulk and mass of the building has also been reduced. The revised proposal has resulted a reduced setback from the site boundaries, in particular the southern boundary with 'Masada'.

7.2.2 The Dun Laoghaire Rathdown Building Height Strategy refers to mature residential suburbs where a general recommended height of two storeys applies, with a maximum of three/four storeys for apartment developments adjacent to public transport nodes subject to the application of the upwards and downwards modifiers set out in section 4.8.1 and 4.8.2 of the Strategy.

The proposal before the Board consists of the construction of a 2.5 storey buildings (maximum height of c.9m) with surface carparking. This is considered acceptable and in compliance with the adopted Building Height Strategy.

7.2.3 The appellants and observers raised concerns regarding the potential for the apartment block to be overbearing when viewed from the adjoining properties to the south (Masada) along Sandyford Road, to the north along Dun Emer Road, to the west (rear) within Ballyolaf Manor or the houses opposite the site along Sandyford Road. I note that the distance from the southern elevation of the apartment block and the closest dwelling, Masada, and which has a obscured windows to the elevation addressing the appeal site would range between be c.2.3m and 3.3m. The distance from the western elevation of the apartment block, which includes balconies, and the closest dwelling, No. 4 Ballyolaf Manor and which has a gable addressing the appeal site, would range between be c.15m and 17m. The balconies have a depth of c. 2m and project beyond the rear building line, resulting is a setback ranging from 8m to 11.8m from the western boundary of the site. I am of the view that taking into account the proposed height and setback of the upper floors, the proposed open space separating the apartment block from the houses at Ballyolaf Manor and the public realm and screening proposed within the scheme, would reasonably serve to ensure the building would not have an overbearing impact from the adjoining properties.

7.2.4 In my view, the proposed building with a height ranging from c. 6m to 9m, with the upper floor recessed is not a tall building. The surrounding area is dominated by a mix of dormer and two-storey houses of varying heights and designs. There are no buildings higher than two-storeys in the immediate vicinity. While I accept that the proposed development would introduce a larger building along the western side of Sandyford Road, I do not consider that the proposal, with a maximum height of c.9m, would have an overbearing impact along Sandyford Road, given the width of the road at this point which accommodates cycle lanes and footpaths on both sides. I consider that the height, design and form of the development is appropriate

in the context of current Development Plan policy and standards, including the relationship of the proposed building to the public realm and adjoining lands.

7.2.5 In my view the use of different roof heights, setbacks and materials reduces the overall form and scale of the proposed building. The development, in terms of design, form and height would not have an overbearing impact on neighbouring properties or from the adjoining public road. The set back of the upper floor from the site boundaries is, in my view, sufficient to address the concerns raised by the appellants and the observers in relation to the overbearing impact on the adjoining properties, in particular, Masada, No. 4 Ballolaf Manor and No. 2, 4 & 6 Dun Emer Road.

7.2.6I, therefore, consider that the grounds of appeal in relation to this matter should not be upheld.

7.3 Residential Amenities

7.3.1 The appellants raised concerns that, while reduced in scale and footprint, the proposed development would detract from the residential amenities of adjoining properties due to overlooking and loss of light/overshadowing.

7.3.2 Section 8.2.8.4 (ii) set out the requirement of 22m for separation distances between upper floor opposing windows which would normally result in rear garden depths of 11m for back to back housing. There are no rear gardens proposed and the County Development Plan does not include a requirement for a setback of 11m for 'habitable' room windows from boundaries they face.

7.3.3 There are no windows proposed to the southern elevation facing 'Masada', therefore overlooking is not an issue.

7.3.4 There are no opposing upper floor windows in a westerly direction as the western elevation (with balconies) faces the gable of No. 4 Ballyolaf Manor with a setback between 9 to 12.8 m from the site boundary.

- 7.3.5 The northern elevation of the apartment block faces the rear of houses No. 2, 4 and 6 Dun Emer Road respectively. There is a corner balcony proposed at first floor level to this elevation. The public open space for Dun Emer bounds the appeal site for the length of the proposed apartment block. This results in a buffer, ranging from 0 to c. 20m, between the site and the rear garden boundaries of the houses along Dun Emer Road. The northeastern section of the site, where the carpark is proposed, is bounded by the side and rear private amenity space of No. 2 Dun Emer Road
- 7.3.6 Where the block is set back less than 11m, the proposal includes mitigating measures in the form of privacy screens to balconies. In this instance, given the proposal for screening along the site boundaries, the orientation of the apartment block and its relationship with adjoining properties. I consider the use of opaque screens to the balconies acceptable. I do not consider that obscured glazing is required to the second floor window serving a bedroom on the northern elevation, as there is adequate setback from the site boundaries to protect the residential amenities of the residents of Dun Emer Road. In addition the public open space area of Dun Emer acts as a buffer along with the proposed planting and open spaces within the northern section of the site. Overlooking from the ground floor window serving a bedroom on the northern elevation is not an issue.
- 7.3.7 I consider that the design of the elevations of the block, the use of opaque glazing and screening where appropriate, the relationship of the building to the site boundaries and the separation distance from the nearest adjacent residential properties would serve to mitigate the potential for overlooking. Privacy would be further enhanced with proposals for screening to the northern and western boundaries to reduce the impact on adjoining properties. This matter can be addressed further by condition if the Board is of a mind to grant permission.
- 7.3.8 The ground of appeal also referred to loss of light arising from the height, bulk and siting of the building.

7.3.9 The Shadow Analysis submitted with the application is incomplete. No details have been submitted of the current scenario for comparison.

Notwithstanding, I consider having regard to the height of the proposed building, the set back from the boundaries and the relationship with adjoining properties that no significant reduction in sunlight amenity can be expected for any of the neighbouring gardens.

7.3.10 I am of the view that while there is a degree of overshadowing it is not of an extent that would detract from the residential amenities of adjoining properties and warrant a reason for refusal. The orientation and layout of the development would not lead to excessive overshadowing within the scheme or of adjoining properties. Consequently, I do not consider that the proposed development would lead to excessive overshadowing of the open space serving the proposed apartments, neighbouring properties or the adjacent open space associated with Dun Emer.

7.3.11 I am satisfied that the current proposal before the Board addresses the issues raised under ABP Ref. PL.06D.247711. I consider that the development is acceptable in the context of the amenities of adjoining properties. Its overall design and scale has adequate regard to the existing pattern of development and the residential amenities of existing dwellings, and such would not result in an overbearing impact or an unacceptable loss of privacy or light levels. The site in its current state, overgrown with Stockwell, in a state of disrepair, adds nothing to the character and amenities of the area. The proposal would be an appropriate use of a serviced suburban site, zoned for the residential development.

7.3.12 I, therefore, consider that the grounds of appeal in relation to this matter should not be upheld.

7.4 Traffic

7.4.1 The appellants and observers highlighted concerns that the scale and density of the development would result in excessive traffic movements onto a busy road which would conflict with pedestrian, cyclist and traffic movements along this section of the Sandyford Road in close proximity to a signalised junction.

- 7.4.2 The proposal includes modifications to the existing vehicular access off Sandyford Road to provide a vehicular and pedestrian access. Traffic was raised in the grounds of appeal to PL.06D.247711. The Inspector recommend refusal on traffic grounds, this was not included in the Board's decision. I note that there is no new information on file to dispute the conclusion reached by the Board under PL.06D.247711.
- 7.4.3 Section 8.2.4.9 (i) in the County Development Plan set out the required dimensions for vehicular entrances and Section 8.2.4.5 refers to the car parking standards. The proposed development complies with the Development Plan standards as set out in table 8.2.3.
- 7.4.4 The site is located on lands zoned for residential use as set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022. The impact of the land uses zonings and permitted densities on public infrastructure is taken into consideration during the Development Plan process. I am satisfied the proposal would not constitute a traffic hazard due to increase traffic movements.
- 7.4.5 In my opinion, the proposed development would generally accord with the provisions of the County Development Plan. The Planning Authority raised no objection on traffic grounds and if the Board is of a mind to grant permission, I am satisfied that outstanding requirements could be dealt with by condition.
- 7.4.6 I, therefore, consider that the grounds of appeal in relation to this matter should not be upheld.

7.5 Other

- 7.5.1 The quality and quantity of the communal open space proposed was raised by the appellants and observers. I consider that two areas of public open space proposed within the confines of the site compliant with the requirements of the County Development Plan in term of quantity. I note that Balally Park and associated amenities is c. 200m to the south of the site. I consider the communal open space provision in this instance acceptable.

7.5.2 The observers raised concerns that the proposal would require the removal of hedge along the site boundaries with Dun Emer. Concerns were also raised in relation to the removal of mature trees, an Ash Tree and a Birch Tree, in particular. There are no TPO (Tree Preservation Orders) attached to the site or these trees. A Landscape Plan was submitted with the application and I am of the view that this matter can be dealt with by condition in the event of a grant of permission. I note that protection of trees within the Dun Emer estate is outside the application site boundaries and beyond the remit of this application.

7.6 Appropriate Assessment

7.6.1 The site is a serviced urban site, which neither lies in or near a Natura 2000 site. The nearest such sites are at a considerable distance and there are no direct connections between them and the development site. Having regard to nature and scale of the proposed development, the nature of the receiving environment and the distance to the nearest European sites, 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.

7.7 Environmental Impact Assessment

7.7.1 Having regard to the nature of the development, comprising the demolition of a house and construction of 8 apartments in one block and the urban location of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

I recommend that planning permission for the proposed development be granted for the following reasons and considerations and subject to the conditions set out below

9.0 Reasons and Considerations

Having regard to the provisions of Dun Laoghaire Rathdown County Development Plan 2016-2022 and to the nature, form, scale and design of the proposed development, and having regard to the pattern of development in the vicinity of the site, 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 and would be satisfactory in regards to traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10. Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 including samples of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of

development.

Reason: In the interest of protecting the character of the Area.

3. The site shall be landscaped in accordance with the submitted scheme of landscaping, specific details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

The developer shall retain the services of a suitably qualified landscape architect throughout the life of the site development works. The name and contact details of said person shall be submitted to the planning authority prior to commencement of development. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the proposed development

All planting shall be adequately protected from damage until established.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

4. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. Any existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

6. Details of public lighting shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development. Such lighting shall be provided prior to the making available for occupation of any apartment.

Reason: In the interests of amenity and public safety.

7. Water supply and drainage arrangements, including the attenuation and 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.

8. Access and parking arrangements shall comply with the detailed standards for Planning Authorities for such works.

Reason: In the interest of amenity and traffic safety.

9.
 - (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.
 - (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of Public Health.

10.
 - a) 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 noise and dust management measures and off-site disposal of construction/demolition waste.
 - b) Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

- c) All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

- 11. Proposals for building names and associated signage shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, all building signs, shall be provided in accordance with the agreed scheme. No advertisements/marketing signs relating to the name of the development shall be erected until the developer has obtained the Planning Authority's written agreement to the proposed name.

Reason: In the interest of urban legibility.

- 12. No dwelling units within the proposed development shall be sold separately, independent from the associated car parking provision. All the proposed car parking spaces shall be for occupants of the residential units and shall be sold off with the units and not sold separately or let independently from the residential development.

Reason: In the interest of orderly development.

- 13. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of communal open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this

development in the interest of residential amenity.

14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

15. 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.

Dáire McDevitt
Planning Inspector

14th September 2018