



An
Bord
Pleanála

Inspector's Report ABP-301033-18

Development

Permission for revisions to a permitted development of 75 no. dwellings (permitted under planning Reg. Ref. D12A/0098 and as amended by D13A/0498, D15A/0850, D16A/0487 and D17A/0107) and will comprise the alteration of the red line area to increase the area of the site to 2.44 ha and the introduction of a new part four, part five storey apartment block, comprising an additional 27 residential apartments and a crèche (108 sqm), associated car and cycle parking, landscaping, refuse storage, all other associated works and revised landscape phasing. this would bring the total number of residential units to 102, comprising 75 apartment and 27 houses.

Location

Site at Ardilea Crescent, Heidelberg, Ardilea, Clonskeagh, Dublin 14

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.	D17A/0689
Applicant(s)	O' Malley Construction Company
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	O' Malley Construction Company
Observer(s)	1. Gary and Margaret Payne 2. Brendan Murphy and others 3. Ardilea Residents Association
Date of Site Inspection	6 th July 2018
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The following is an extract from the Inspector's Report on the parent permission PL 06D.241000 concerning the 'Site Location and Description' which is still relevant.
- 1.2. *'The appeal site is located in Goatstown in south Dublin approximately 6km south-east of the city centre. The site lies to the north-east of the junction of Goatstown Road (R113) and Mount Anville Road (R112), and to the north of the alignment of the proposed Dublin Eastern Bypass.'*
- 1.3. *The site was previously in use as sports fields but is now largely overgrown. A palisade fence surrounds the site making it largely inaccessible. There is a belt of mature trees along the northern boundary separating the site from established residential areas. Levels within the site fall by as much as 6m from south to north. This includes a 2m berm which traverses the site from east to west. The stated site area is 2.08 hectares.*
- 1.4. *To the north is Salamanca and Salzburg, residential roads comprising of large detached dormer dwellings with rear gardens backing onto the site. Access to the site is via Heidelberg which sits perpendicular to Salamanca/ Salzburg. This road commences at a 'T' junction with Roebuck Road before continuing 650m and terminating in a cul de sac to the north-west of the site. To the south-west of the site is Goatstown Close, a new residential development accessed off Goatstown Road and separated from the site by 3m high wall. Council allotments are also located to the south-west on the proposed road alignment.'*
- 1.5. The Board should note that due to revised plans for the Dublin Eastern By-Pass, additional land to the south west of the original site was no longer required for the road and was acquired by the applicant. The site area is now 2.44 hectares. The site is no longer an overgrown field as it is now a construction site with a large portion of the houses built and one of the apartment Blocks completed and the other under construction and nearing completion.

2.0 Proposed Development

- 2.1. Permission is sought for revisions to a permitted development to increase the site area to 2.44 hectares and to construct a new part four part five storey apartment block comprising an additional 27 residential apartments and a creche. The apartments comprise of a mix of 17 No. two bedroom apartments, 8 No. three bedroom apartments and 2 No. one bedroom apartments. The creche has an area of 27 square metres and has capacity for 27 No. children. Designated creche and visitor car parking is indicated on the drawings.

3.0 Planning Authority Decision

3.1. Decision

Permission refused for one reason only as follows:

'Having regard to the extent of surface car parking proposed to the west of proposed Block C and the resultant deficiencies in usable, quality open space and the removal of existing trees on site the proposed development would result in a car dominated layout which would be contrary to Policy UD1 (Urban Design Principles) and Sections 8.2.8.3 (Public/ Communal Space – Quality) of the Dun Laoghaire Rathdown County Development Plan 2016-2022. The over reliance on surface car parking contributes to the inability of the proposed development to provide requisite open space standards. The proposed development results in an overall development that is deficient in open space, has a car dominated layout, is contrary to the provisions of the Dun Laoghaire County Development Plan 2016-2022, would seriously injure the amenities or depreciate the value of property in the vicinity, would provide sub-standard residential amenity and would seriously injure the residential amenity of future residents. The proposed development is therefore contrary to the proper planning and sustainable development of the area.'

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planner's report considered that an additional apartment building was acceptable in principle. It considered that there was an over reliance on surface car parking which results in a car dominated layout and poor public realm.

3.2.2. Other Technical Reports

Transportation Planning: The first report required further information in relation to a number of issues including permeability and footpath /cyclepath widths, omission of grass strips etc. The second report had no objection subject to conditions.

Drainage Planning: No objection subject to conditions.

Housing Section: No objection subject to conditions.

Parks and Landscape Section required further information.

Public Lighting Section: No objection.

3.3. Prescribed Bodies

Transport Infrastructure Ireland

The proposed development will rely on the Planning Authority to abide by official policy. The proposed development is located in close proximity to a future national road scheme.

3.4. Third Party Observations

A total of 11 submissions were received. The issues raised reflect those in the observations submitted to the appeal.

4.0 Planning History

Relevant planning history includes the following:

PA Reg. Ref D12A/0098/ ABP PL06D.241000

Permission granted by the Planning Authority and by ABP on appeal for residential development. Condition 2 required Apartment Blocks A and B to be omitted. A total of 66 units were granted on the site.

PA Reg. Ref. D13A/0498/ ABP PL06D.243019

Permission granted by Planning Authority and by ABP on appeal for residential development. This increased the number of permitted units from 66 to 74.

PA Reg. Ref. D15A/0850

Permission granted for a reconfiguration of Block A providing the same number of apartments along with associated alterations to elevations and the proposed phasing of delivery of the public open space.

PA Reg. Ref. D15A/0862

Permission refused for amendments to D12/0098 and D13/0498 to comprise the provision of a detached house due to the provision of physical features on the road reservation line undermining the future deliverability of the scheme.

PA Reg. Ref. D16A/0487

Permission granted for amendments to D12/0098 and D13/0498 and D15A/0850 to comprise of an additional 4 bedroom dwelling.

PA Reg. Ref. D17A/0107

Permission granted for revisions to development permitted under D12A/0098, D13A/0498 and D16A/0487 to comprise replacement of 2 No. terraces of 6 No. houses in a 3 + 3 terrace configuration to a 2 + 2 + 2 configuration in the north west of the site.

5.0 Policy Context

5.1. Development Plan

The Dun Laoghaire- Rathdown County Development Plan 2016-2022 is the operative County Development Plan for the area.

Zoning:

'Objective A' which seeks to 'protect and/or improve residential amenity'.

There is an objective 'to protect and preserve Trees and Woodlands' on the subject site under the Plan.

There is a Strategic Road Reservation line immediately south of the subject site under the Plan.

The site is within the Goatstown Local Area Plan (LAP).

5.2. Goatstown Local Area Plan 2012 (extended to 2022)

Section 2.4 of the LAP states that 'The road reservation for the proposed Dublin Eastern Bypass, which passes through the Plan area, effectively sterilises a large portion of land within the Goatstown environs. The lack of certainty as to the future development of the road and its final layout has hampered prospective development opportunities on land neighbouring the corridor. The National Transport Authority's Draft 2030 Vision for the GDA indicates that the Eastern Bypass proposal is not recommended to facilitate the possible future use of the corridor for transport provision. This continuing uncertainty in relation to the corridor imposes a significant negative impact on the Plan area.'

Policy MT6 states 'It is an objective of the Plan to ensure that all new development within the Plan area helps promote an improved permeable urban environment and maximises opportunities to provide direct pedestrian and cycle links both within the Plan area itself and within the immediate environs. A specific objective is to investigate the possibility of improving cycle/pedestrian access from Goatstown to UCD via the Knockrabo sites.

Section 6.4 of the LAP specifically refers to the 'Knockrabo Sites' i.e. the subject residential site and land to the south separated by the Strategic Road Reservation line. Table 6.3 gives 'Development Guidance' on height, density, design objectives, open space, landscaping and movement.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- A total of 3,745 square metres of public open space is proposed. This area is shown on Drawing PL15 in the Further Information Response. The response goes through 4 areas of open space which are considered by the Planning Authority not to meet the requirements of Section 8.2.8.3 of the Plan and considers that they are acceptable.
- The overall provision when the areas not considered to meet the Development Plan requirements is omitted is 3,492 square metres.
- Even taking the lower figure calculated by the Planning Authority of 2,932 square metres, the area is in excess of Development Plan requirements.
- The Design Standards for New Apartments Guidelines are less onerous than the Dun Laoghaire Rathdown Standards and require the provision of 2,435 square metres of open space.
- Two No. appeals to ABP are mentioned where 10% open space was considered to be acceptable by the Inspector.

- Areas of public amenity space in Deerpark and UCD are less than 1km from the site.
- If the level of open space is considered to be inadequate, there is provision in the CDP to explore the possibility of a contribution in lieu of open space.
- Due to the scale of the proposal, the nature of the site and underlying bedrock, it is impractical, unfeasible and unnecessary to locate parking underground.
- The area to the west of Block C is well landscaped and is not dominated by car parking.
- A revised site layout submitted with the appeal addresses the reason for refusal by allowing the retention of two existing trees on the western boundary and the parking is divided into two separate parking areas.
- Car parking spaces could be reduced in line with Section 4.19 of the Sustainable Urban Housing Guidelines.

6.2. Planning Authority Response

- An Bord Pleanála is referred to the previous planner's report.
- A residential development should be self-sufficient with regard to public open space. References to public open space at UCD and Deerpark (over 1km away) is not considered appropriate to mitigate a deficiency in the provision of public open space on site.
- It is not considered that a financial contribution in lieu of open space is appropriate as it does not comply with Section 8.2.8.2 (Public/ Communal Open Space – Quantity) (iii) (Financial Contributions in Lieu of Open Space) of the County Development Plan 2016-2022 as it is too far from an established high specification public park.
- The Planning Authority does not agree with the assertion in the appeal documentation that the area west of proposed Block C is not car dominated.
- Section 5.3 of the appeal documentation states that 'the creation of a basement at this location would be impossible'. It was referred to as

'unfeasible both in terms of time and cost' in the further information response though 'achievable on large infrastructure schemes'. The Planning Authority therefore has doubts about the veracity of the statement that the construction of a basement is impossible.

- The Planning Authority is well aware of the need for increased residential development. However, such development should not be at the expense of acceptable accommodation standards and the amenity of residents.

6.3. Observations

Observations have been submitted from the following parties:

1. Ardilea Residents Association
2. Brendan Murphy and others
3. Gary and Margaret Payne

The observations submitted can be summarised as follows:

- The density has been incorrectly calculated as an adjacent site has not been included and is excessive.
- The public open space is adjacent to a proposed motor way.
- The applicant is seeking to increase the number of apartments previously refused by ABP.
- The distance to Deerpark is 1.3km and not 1.1km as claimed by the applicant. The applicant refers to a future connection via Knockrabo South. This is by way of a gate (which is to be closed until such connection, if ever, is attained) and is reliant on a similar condition contained within the permission for planning permission for Knockrabo South).
- The lands indicated as open space at UCD have been the subject of housing applications and two phases have been granted.
- Concern regarding the unnecessary loss of trees.

7.0 Assessment

7.1. Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

- Principle of Development
- Density
- Open Space
- Other Matters

7.2. Principle of the proposed development

7.2.1. The relevant plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned 'Objective A' with a stated objective 'to protect and or improve residential amenity'. This proposal is for residential use and is compliant with land use policy.

7.3. Density

7.3.1. The proposal is for revisions to a permitted development of 75 No. dwellings on an enlarged site of 2.44 hectares to provide a new part four part five storey apartment block comprising of an additional 27 apartments and a creche. This would bring the total number of residential units to 75 No. apartments and 27 No. houses. The permitted density provides for 36 No. units per hectare on a 2.08 hectare site. The proposed development for 102 units on a 2.44 hectare site would result in a density of 41.8 units per hectare.

7.3.2. The observers have pointed out that the Board previously refused permission under ABP 06D.241000 and it is now proposed to raise the density again.

7.3.3. Condition 2 of PL06D.241000 is as follows:

- 'Apartment Blocks A and B shall be omitted. This permission allows for 67 number dwellings only (42 apartments and 25 houses). Revised drawings showing compliance with these requirements shall be submitted to, and

agreed in writing with, the planning authority prior to commencement of development.

Reason: It is considered that Blocks A and B, would have undue overshadowing impact on the open space and having regard to the route corridor alignment shown on the Count Development Plan would deliver poor quality residential environment for future occupants.

- 7.3.4. Revisions to the parent permission have been granted which have increased the density from the parent permission. I note that the parent permission did not include density as a reason for the omission of Blocks A and B.
- 7.3.5. This is a serviced zoned site in a designated development area. The Inspector's Report on the parent permission stated that the 48 units per hectare originally sought was appropriate and I concur with this. What is now sought is less than that originally sought. I note that the apartments comply with the apartment design standards set out in the 'Sustainable Urban Housing: Design Standards for New Apartments Planning Guidelines.' The site is considered to be in a central accessible location, close to UCD, and within easy walking distance of good public transport in an existing serviced area. The proposal seeks to widen the housing mix in the area, and would improve the extent to which it meets the various housing needs of the community. The density proposed is considered to be appropriate for the site and in compliance with the relevant section 28 ministerial guidelines.

7.4. Private Open Space

- 7.4.1. The main issue raised in relation to the private open space relates to the quantity required.
- 7.4.2. The areas counted as public open space are coloured in blue and hatched on the further information response (PL15) as also submitted in Appendix E of the appeal. The 'overall open space' provision is outlined in orange on this drawing. The blue hatched area is 3492 square metres whereas the overall provision is 3745 square metres.

- 7.4.3. The planning authority consider that a number of areas are unsuitable in terms of quality as per the criteria set out in Section 8.2.3.8 of the CDP and have calculated the areas suitable as 2,932 square metres.
- 7.4.4. The appeal disagrees with the planner's calculation of open space and considers that there is sufficient open space having regard to the 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines.'
- 7.4.5. I am in agreement with this and consider that these guidelines take precedence over the standards set out in the CDP. The CDP sets out higher quantities than the new guidelines. I note however, that the guidelines are for apartments only and the CDP standard still applies to the 27 permitted houses. Appendix F indicates a requirement of 2,435 square metres. For houses, a figure of 20 square metres per occupant has been used in the calculations submitted by the appellant, based on the Council's occupation calculation of 3.5 people per dwelling. The calculation allows 70 square metres per house, whereas the CDP standard is 75 square metres per house. I have calculated the requirement to be 2,570 square metres based on 75 square metres per house (CDP policy) and 7 square metre per two bedroom apartment and 9 square metres per three bedroom apartment in accordance with Appendix 1 of the Guidelines.
- 7.4.6. I consider that there is sufficient communal open space on the site to comply with the relevant standards set out in the CDP for houses and in the apartment guidelines for apartments. I note that the appeal mentions a number of other areas close by for the provision of communal open space and a contribution in lieu of public open space if public open space is deemed to be insufficient. The planner's response and a number of the observations consider that these areas are too far away and inappropriate. Having regard to the fact that the application meets the relevant standards in terms of communal open space provision, I am satisfied that the matters raised in relation to a contribution towards the provision of space in other areas is not relevant at this time.

7.5. **Other Matters**

7.6. **Car Parking and Loss of Trees**

- 7.7. Part of the reason for refusal by the Planning Authority related to the extent of surface car parking and the car dominated layout and the loss of trees. A revised site

layout Drawing Ref. PL02 Revision B is submitted in Appendix J of the appeal. This revision retains two mature trees and divides the car parking into two separate areas. I consider that this revision successfully addresses the concerns in relation to domination of parking and loss of mature trees.

7.8. It is stated that 'due to the scale of the proposal, the nature of the site and the underlying bedrock, it is impractical, unfeasible and unnecessary to locate parking underground.'

7.8.1. Whilst I note that the applicant has not provided any evidence in relation to underlying bedrock, I consider that the revised design has addressed the concerns raised.

7.8.2. **Site and Newspaper Notices**

7.8.3. I note that there was an error in the site and newspaper notices in that the parent permission is referred to as D12A/0095 rather than the correct Ref. No. D12A/0098. The planner's report states that 'this is clearly a typographic error and it is considered, given all the other information contained in the notices e.g. the other reference numbers, the development description, site address etc. that the notices are sufficient to adequately inform as to the proposed development and does not materially affect the ability of any third party to make a submission.' I consider that the Planning Authority have accepted that this is a valid application and the Board have no further role in this matter.

7.9. **Appropriate Assessment**

7.9.1. Having regard to the nature, scale and design of the proposed development and proximity to the nearest Natura 2000 site, I am satisfied that the proposed development either individually or in combination with other plans and projects would not be likely to have a significant effect on any designated Natura 2000 site and should not be subject to appropriate assessment.

8.0 **Recommendation**

I recommend that permission should 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 Dun Laoghaire- Rathdown County Development Plan 2016-2022, to the planning history of the site and the pattern of development in the area, 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 and would be acceptable in terms of traffic safety and convenience. 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 further plans and particulars submitted on the 22nd December 2017, as amended by further planning and particulars submitted to An Bord Pleanála on the 22nd of February 2018 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 car parking layout shall be set out in accordance with Drawing PL02 REV B in Appendix J submitted to An Bord Pleanála dated the 22nd of February 2018. The trees indicated to be retained on this layout shall be retained by the developer.

Reason: In the interest of visual amenity.

3. 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 and to ensure a satisfactory standard of

development.

4. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:

(a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.

(b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;

(c) Pedestrian crossing facilities shall be provided at all junctions;

(d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works,

(e) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site

(f) One car parking space per ten residential units shall have a functional Electric Vehicle Charging Point

(g) At least one car parking space shall be allocated to each residential unit within the scheme. Car parking spaces shall be sold off in conjunction with the units and shall not be sold or let separately.

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

5. The site shall be landscaped in accordance with the submitted scheme of landscaping, 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 approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity.

6. Details 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 visual amenity.

7. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenity of property in the vicinity and the visual amenity of the area.

8. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

Reason: In order to safeguard the amenities of property in the vicinity.

9. Prior to commencement of development, proposals for an apartment numbering scheme and associated signage shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development

10. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Membership of this company shall be compulsory for all purchasers of property in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

11. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

12. 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 (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 of the area.

13. Prior to commencement of development, a phasing programme for the development shall be submitted to the planning authority for agreement.

Reason: To provide for the orderly development of the site

14. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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.

Reason: To provide for the appropriate management of waste, and in particular recyclable materials, in the interest of protecting the environment.

15. 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 and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance 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 the Board for determination.

Reason: To ensure the satisfactory completion of the development.

16. The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the

Planning Authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the Planning Authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the Planning Authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Emer Doyle

Planning Inspector

1st August 2018