



An
Bord
Pleanála

Inspector's Report ABP-301421-18

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| Development | 38 houses and 8 apartments, car parking, landscaping, drainage and associated site works. |
| Location | Newcastle, Co. Dublin. |
| Planning Authority | South Dublin County Council |
| Planning Authority Reg. Ref. | SD17A/0378 |
| Applicant(s) | Geotechnical Investigations Ltd |
| Type of Application | Permission |
| Planning Authority Decision | Grant |
| Type of Appeal | First Party-v-Conditions |
| Appellant(s) | Geotechnical Investigations Ltd |
| Observer(s) | |
| Date of Site Inspection | 05 th July 2018 |
| Inspector | Colin McBride |

1.0 Site Location and Description

1.1 The subject site is located within the centre of Newcastle village. The appeal site is accessible from a new distributor road which currently provides access to a recently constructed primary school. St. Finian's National School is located on the opposite side of the distributor road from the appeal site. The Distributor Road provides three access points to the appeal site. There is a public footpath and lighting located to the immediate west of the appeal site and adjacent to the Distributor Road. The gradient of the Distributor rises gently upwards from the Main Street to the north. The Distributor Road takes its access from the Main Street to the north of the appeal site. There is a vacant site situated between appeal site and the Main Street. The size of the appeal site is approximately 1.595 ha and the shape of the appeal site is irregular. The appeal site is currently a vacant overgrown site. The gradient of the appeal site rises gently upwards in a north-south direction. The appeal site is divided into two sites by a fence / hedgerow. On one side of the fence / hedgerow is a depot / construction storage yard and on the other side is the remainder of the overgrown vacant site. There is an overhead utility line situated to the north of the appeal site and there is a large / mature hedgerow situated along the eastern boundary of the appeal site. The lands to the immediate east of the appeal site are vacant green fields. The Main Street in the immediate vicinity of the appeal site is characterised by both single storey and two-storey suburban type housing and some neighbourhood shops.

2.0 Proposed Development

2.1. Permission is sought for a residential development consisting of 46 no. units with the breakdown of units as follows...

Block A: 10 no. two-storey, 3 bed terraced dwellings.

Block B: 9 no. two-storey, 3 bed terraced dwellings.

Block C: 8 no. two-storey, 3 bed terraced dwellings.

Block D: 7 no. two-storey, 3 bed terraced dwellings.

Block E: 4 no. two-storey, 3 bed terraced dwellings.

8 no. apartment units in 4 no. two-storey blocks identified as Block F % G. The blocks consist of 1 no. three bed apartment at ground and first floor level and 1 no. two bed apartment unit at ground floor level. The apartment units include 4 no. elderly housing units.

The proposal entails landscaping, parklands open space, car parking, street works, junction works onto permitted access road, outfall drains, boundary treatment and all associated site development works.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 37 conditions, of note are the following conditions...

Condition no. 2:

(3) Requires revised plans including

(a) Rear access lane between rear gardens of Blocks A and B to be omitted and incorporated into amenity space.

(b) Units 1, 23, 24 42 to be omitted.

(c) Units 2, 22, 25 and 41 to be redesigned to incorporate dual frontage with main elevation facing eastern boundary.

(d) A shared north-south cycle and pedestrian footpath shall be designed and located immediately west of the eastern burgage hedge - running between Street 1 and Street 4 as detailed on site layout plan 0021A1.

(e) Block E to be omitted and subsumed into the public open space.

(f) The provision of appropriately designed bin storage areas shall be provided in front of each house.

(g) The provision of a boundary (non-wooden) consisting of a 1.2m bow topped railing around the perimeter of the ground floor patios of Block F and G.

Condition no. 4: Submission of Traffic Impact Assessment, full topographical survey of existing road, footpaths and public lighting infrastructure, revised site layout plan showing location of bicycle storage.

Condition no. 5: Revised details required including windows and doors with a more simple and contemporary design, no fanlight or sliding sash windows, change of projecting elements from render to stone, and images and samples to be submitted and agreed.

Condition no. 6: Bond of €46,427.75 required in respect of trees and hedgerows to ensure protection of such on and immediately adjacent the site during the construction phase.

Condition no. 10: Revised details including provision of play facilities in line with national policy (Ready Steady Play), including details of location and equipment to be provided.

Condition no. 24: Submission of a bat survey.

Condition no. 31: A minimum of 10% of ancillary car parking spaces to be provided in accordance with development plan standards shall make provision for facilities for charging vehicles. Details of charging facilities to be agreed prior to the commencement of development.

3.2. Planning Authority Reports

3.2.1. Planning and Technical Reports

Roads Department (17/11/17): Additional information required including demonstration of right/consent to use access road outside of site boundary, revised footpath and roundabout layout, road construction details, provision of bicycle parking, submission of a Traffic Impact Assessment and public lighting scheme.

Water Services (22/11/17): Additional information including a report regarding flood risk, and details of foul and surface water.

An Taisce (23/11/17): The previous refusal on site is noted, it is considered that demonstration that issues raised under that application be resolved.

Irish Water (28/11/17): Additional information required regarding water supply infrastructure.

Architectural Conservation Area (07/12/17): Additional information required including revisions to the external elevations to have regard to its location within an ACA.

Roads Department (08/12/17): Refusal recommended due to omission of the road to the east on adjoining lands, which would lead to a large number of vehicles movement from future development on adjoining lands passing the school.

Planning report (14/12/17): Additional information including

Roads Department (09/03/18): Refusal recommended as the applicant has not supplied a Traffic Impact Assessment to assess traffic impact on the adjacent school and Newcastle Main Street.

Water Services (14/03/18): No objection subject to conditions.

Irish Water (21/03/18): No objection.

Planning report (26/03/18): Permission granted subject to the conditions outlined above.

3.3. Third Party Observations

Submission from Cairn PLC

- Noted that the layout should be revised to improve permeability with adjoining lands, the three streets through the site should continue to the eastern boundary of the site to facilitate future linkages.

- The foul and storm water sewer connections should be provided for at the eastern end of Street 1 to facilitate the development of the site to the east in an integrated manner.

4.0 Planning History

4.1 PL06S.247964 (2017): Permission refused to Geotechnical Investigations Ltd for 46 houses, landscaping, car parking. Junction works onto access road, boundary treatment and associated site development works. Refused based on one reason...

(1) The proposed development by reason of inadequate provision of public open space would be contrary to the Section 11.3.1 (iii) of the South Dublin County Development Plan 2016-2022, paragraph 7.2.15 of the Newcastle Local Area Plan 2012, and the Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in May, 2009, and would set an undesirable precedent for similar type of development in the area. The proposed development would seriously injure the residential amenity of the area and would, therefore be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

5.1.1 The Development Plan is the South Dublin County Council Development Plan, 2015 – 2021, is the operational Development Plan. The appeal site has three zoning

objectives. The majority of the site is zoned Objective RES-N, while smaller strips of land relating to the subject site are zoned 'Objective VC' and 'Objective OS'.

The zoning objectives are as follows;

- Objective RES-N 'to provide for new residential communities in accordance with approved area plans'.
- Objective VC 'to protect, improve and provide for future development of Village Centres'.
- Objective OS 'to preserve and provide for open space and recreational amenities'.

5.1.2 The Newcastle Local Area Plan, 2012, is the statutory Local Area Plan. Section 6.6 Neighbourhood 4: Burgage South is relevant and this section provides guidance in relation to the following;

- Green Infrastructure
- Accessibility and Movement
- Land use and Density
- Built Form

5.2. **Natural Heritage Designations**

None in the vicinity.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A first party appeal has been lodged by MDG-AT on behalf of Geotechnical Investigations Ltd. The grounds of appeal are as follows...

- It is noted the current proposal is designed with regard had to the previous decision on site under PL06S.247964 with it noted that the Local Authority raised issues previous though resolved under the previous proposal on site under PL06S.247964. The appeal concerns the application of Condition no.s 2, 4, 5, 7, 10, 24 and 31.
- (a) A number of revisions are sought under condition no. 2. It is considered the removal of the rear passage between blocks A and B would change the clean and orderly appearance of the development with the need to provide bin and bicycle storage to the front of the dwellings.

(b & c): It is noted the removal of dwellings would reduce the density below that recommended under the Sustainable Residential Development in Urban Areas guidelines and that the Bord had deemed the 46 houses was an acceptable density under PL06S.247964 (Inspector's report).

(d) It is considered the provision of a cycleway and pedestrian path is a new proposal that would result in a less acceptable development, it is contrary the provision of the LAP and would not be a well-integrated feature in term of supervision or with adjoining lands.

(e) No planning rationale has been provided for removing Block E with it considered that such fits well into the overall scheme. It is considered that sufficient public open space has been provided (20% of the site area).

(f) This refers to the rear access pathway and a significant change to the design.

- In relation to condition no. 4, it is noted the requirements of the Roads Department were not considered necessary under the Planning report. The pattern of development and access in place are noted with it stated it is in keeping with the Newcastle LAP and that the access road provided for as part of the school development (SD14A/0098) is in place and includes drainage infrastructure and access points to the appeal site. It is considered that sufficient information is available and that condition no. 4 is not required.
- It is considered that the applicant dealt with the matters raised by the Councils Architectural Officer by way of response to further information. It is noted that

the Architectural Officer did not respond to the information submitted by the applicant. It is considered that condition no. 5 is unnecessary and need to submit revised plans and receive written agreement is undesirable.

- In relation to condition no. 7 it is noted there are no trees and hedgerows on site and no tree felling is proposed and no hedgerows will be interfered with.
- In relation to condition no. 10, it is noted that this requirement does not accord with the legal requirements of the applicant or the provision of the LAP. The plan entails provision of a large neighbourhood park (space for such under multiple ownership). It is noted that the applicant intends to make the open space suitable for use as such and that eventual development of the neighbourhood park will provide for play facilities with the its design and location determined by the Planning Authority.
- Under condition no. 24 a bat survey is required to be submitted. The applicant notes that a bat survey was carried out in October 2013 in relation to the school development and the lands it is located on. A bat derogation license was made to the Department in relation to the access road. In compliance with requirements of Department the current applicant erected bat roosts on a number of trees along the eastern hedgerow of the site for a monitoring programme carried out for a minimum of 3 years with the findings submitted to the Planning Authority. It is noted that the Planning Authority has up to date information on bats with it questioned why a bat survey is necessary.
- It is noted that condition no. 31 is premature as there is no legislation, directive or official recommendation available in relation to the provision of electric charging stations in residential estates.

6.2. Planning Authority Response

6.2.1 No response.

7.0 Assessment

7.1. At the outset, I wish to point out that following consideration of the documentation on the appeal file and the site location and context, I am satisfied that consideration of the proposal on a de novo basis, (that is as if the application had been made to the Board in the first instance), is unwarranted and this it is appropriate to determine the appeal in accordance with the provisions of Section 139 of the Planning and a Development Act, 2000 (as amended). Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Condition no. 2

Condition no. 4

Condition no. 5

Condition no. 6

Condition no. 10

Condition no. 24

Condition no. 31

7.2 Condition no. 2:

7.2.1 Condition no. 2 entails a number of revisions. The main revision (Condition no. 2 (b) (c) and (e)) is omission of 8 no. units, which are no. 1, 23, 24 and 42 and Block E (units 43 to 46). The appellants note that the omissions of units in question provide for a density that is too low. The overall development sought is 46 units with the permitted development having 38 units. The proposed density is 29 units per hectares and after omission of units in question it is 24 units per hectare. The County Development Plan guidance in relation to residential density recommends that the number of housing units built on a site should be determined by the Sustainable Residential Development for Planning Authorities, 2009. In relation to the Sustainable Residential Development for Planning Authorities, 2009, I would consider that paragraph 6.9 is most relevant to the proposed development. Paragraph 6.9 recommends that within centrally located sites, densities of 30-40+ dwellings per hectare for mainly residential schemes are appropriate. The residential

density of the proposed development would be consistent with the recommendations of the Sustainable Residential Development for Planning Authorities, 2009. I would consider that the loss of 8 units would give rise to a low density on zoned and serviced lands and that the site size is capable of providing for a higher density than the permitted development.

7.2.2 Condition no. 2 (b) and (c) entails omission of no.s 1, 23, 24 and 42 and the entirety of Block E (4 no. units) and the redesign of units no. 2, 22, 25 and 41 to provide frontage facing east. There is an existing Newcastle Local Area Plan, which includes an indicative layout of development on site. It is notable that the proposed layout is generally in keeping with the indicative layout and framework set down under the Local Area Plan in how the blocks are laid out on site. I would question the logic for omission of no.s 1, 23, 24 and 42, which are located with their gable adjoining the eastern boundary of the site. I am satisfied that the design and layout of these units are in keeping with the framework set down under the Local Area Plan and such would not compromise the overall layout or the development potential of the adjoining site to the east. I would also consider the loss of such units would give rise to a density that is lower than recommended under the Sustainable Residential Development guidelines and an unsustainable use of zoned serviced lands. In removing the units in question the condition also seeks to provide for a revised frontage on the eastern gable. As noted above, I would consider the removal of these units to be unsustainable in regards to density and a waste of zoned land. The provision of the four units close to the eastern boundary is in keeping with the LAP framework and the redevelopment of the adjoining site to the east in accordance with the framework will mean the eastern gable of the units in question should not be highly visible as well as the fact that providing them with a more active frontage may impact upon the development potential of the adjoining site.. I would recommend that these units be retained and that this part of the condition no. 2 ((b) and (c)) should be omitted.

7.2.3 Block E is located on the southern portion of the site and includes the 4 no. units, their rear gardens and an open space area to the front. Block E is to be omitted under Condition no. 2 (e) and subsumed into the open space area. Under the Newcastle Local Area Plan in the framework/indicative layout the portion of the site,

where Block E is located is indicated as being part of the large neighbourhood park proposed to be made up of a portion of the appeal site and adjoining lands. Based on the Local Area Plan this portion of the site is earmarked as amenity space. Having regard to the fact there is a Local Area Plan in place, which provides for a very clear framework for development of the lands at this location, I would note that the proposal and location of Block E does conflict with such and I would consider that the omission of Block E is in accordance with the proper planning and sustainable development in the area.

7.2.4 Condition no. 2(a) entails a revision including the removal of the rear passage and 2(f) the provision of bin storage to the front of the dwellings. Having regard to the fact that the layout of development provides for a significant amount of dwellings and units that do not have side access, I would consider the provision of the rear access path is reasonable. I would however consider that the rear access paths should have controlled access with gate to be provided at the entrance of each. I would also consider that the provision of bin storage to the front is reasonable as it is very real possibility such items will be stored to the front of dwellings regardless of the provision of rear access. I would, therefore, recommend that Condition 2(a) be omitted and 2(f) be retained.

7.2.5 Condition no. 2(d) requires provision of a shared north-south cycle and pedestrian footpath shall be designed and located immediately west of the eastern burgage hedge - running between Street 1 and Street 4 as detailed on site layout plan 0021A1. The site layout shows a footpath between street 2 and 3 with the condition requiring a shared footpath/cycle path that runs north south between street 1 and 4. The appellant argues that such is not in keeping with the LAP framework for the area, would not be well integrated and is not a necessary element. I would note that there is space for such a path and that it would provide a better linkage through the development to the main open space to the south, which is to be part of a larger amenity space serving the area. The provision of such would not alter the layout significantly or deviate from the framework plan under the LAP and would be beneficial to north-south permeability. I would recommend that this part of condition no. 2 be retained.

7.3 Condition no. 4

7.3.1 Condition no. 4 requires the submission of Traffic Impact Assessment, full topographical survey of existing road, footpaths and public lighting infrastructure, revised site layout plan showing location of bicycle storage. The appeal site is to be accessed over an existing road that runs north to south along the western boundary of the site and forms junction with the Main Street to the north of the site. This road is a recent construction and provides access to the recently constructed school building on the western side of the road. There are three access points/junctions provided along the western boundary of the site off the road and a roundabout at the south end of the road. The existing access road include footpaths, cycle path (western side) and public lighting and is constructed to current standards.

7.3.2 I would question the logic of requesting the submission of a Traffic Impact Assessment (TIA), topographical survey of existing roads and footpaths and public lighting infrastructure, given the fact that the site is provided with access from a recently constructed road that appears to be of a very good standard and up to date with current standards. I would question the logic of requesting these details, in particular a TIA after the fact, when permission has been granted. The appeal site is land zoned for residential purposes, is provided with a good standard of access through an existing recently constructed road and is in keeping with the framework for development under the Newcastle Local Area Plan. I do not consider that the details requested under condition no. 4 are necessary and this condition should be omitted.

7.4 Condition no. 5:

7.4.1 Condition no 5 required revised details including windows and doors with a more simple and contemporary design, no fanlight or sliding sash windows, change of projecting elements from render to stone, and images and samples to be submitted and agreed. This condition is based on the fact the site is located within an Architectural Conservation Area. I would consider that the overall design and

architectural details proposed are generally acceptable. I would also consider a more simplified contemporary design would also be perfectly acceptable at this location also, however I do not consider that the design proposed would be detrimental to character of the area or the designated Architectural Conservation Area. I would recommend that this part of the condition be omitted.

7.5 Condition no 6:

7.5.1 Condition no. 6 requires a bond of €46,427.75 required in respect of trees and hedgerows to ensure protection of such on and immediately adjacent the site during the construction phase. The information submit include a report from an arborist. This report provides for a survey of existing trees and hedgerows on site including details of all trees and hedgerow to be retained as well as measures to be implemented to ensure protection of such trees and hedgerow. The bond applied under condition no. 6 is to ensure that all trees and hedgerow identified for protection is maintained on site during construction of the proposed development. The bond is repayable if the development is carried out and the trees and hedgerow identified for protection are maintained adequately. I would consider that the application of a bond to ensure protection of such trees and hedgerows is reasonable and if the applicant/developer fulfil their obligations in this regard the bond will be refunded. Having regard to such, I would consider that the application of a bond in this case is acceptable. I would recommend that this condition be retained.

7.6 Condition no. 10:

7.6.1 Condition no. 10 requires revised details including provision of play facilities in line with national policy (Ready Steady Play), including details of location and equipment to be provided. The appellant noted that there are proposals for a larger neighbourhood park as part of the Newcastle LAP and that such facilities will be provided in this park of which the site is part of (southern portion). There is a possibility that the completion of the main park area could take some time due to the reliance on multiple developers and landowners and that the provision of play facilities within such could take some time. Having regard to the current proposal for a residential development, which will be a self-contained development in absence of

the redevelopment of adjoining lands, I consider the provision of play facilities on site is a reasonable requirement to serve the future residents if the proposed development is implemented in the short term. I would recommend that this condition be retained.

7.7 Condition no. 24:

7.7.1 Condition no. 24 requires the submission of a bat survey. The applicant/appellant noted that the works associated with the school to the west of the site included a bat survey noting that the current applicant erected bat roosts on a number of trees along the eastern hedgerow of the site for a monitoring programme carried out for a minimum of 3 years with the findings submitted to the Planning Authority. I would note that there are no existing structures on site to be demolished and that a significant degree of the hedgerow on site is to be retained. I do not consider that this condition is necessary and would recommend its removal.

7.8 Condition no. 31:

7.8.1 Condition no. 31 requires that a minimum of 10% of ancillary car parking spaces to be provided in accordance with development plan standards shall make provision for facilities for charging vehicles. Details of charging facilities to be agreed prior to the commencement of development. The layout is such that the area outside of the units is communal (footpaths and parking) meaning charging facilities are not as easily provided for the individual units by the owners/residents themselves. I would consider that the provision of or facilitating for future provision of charging facilities is in the interest of the proper planning and sustainable development of the area. In the interests of sustainable development I would consider the provision of such would be beneficial. I would note that the level of parking for which the condition applies is small and that the condition is not unreasonable. I would recommend that it be retained.

8.0 Recommendation

- 8.1. I recommend that South Dublin County Council be directed to remove condition no.s 2 (a), (b) and (c), 4, 5 and 24.
- 8.2. I recommend that South County Council be directed to retain condition no.s 2 (d), (e) and (f), 6, 10 and 31.

An order stating the following should be issued.

9.0 Decision

Having regard to the nature of the conditions the subject to this appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reason and considerations set out below, directs said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 (as amended) to REMOVE Condition no.s 2 (a), (b) and (c), 4, 5 and 24 and RETAIN Condition no.s 2 (d), (e) and (f), 6, 10 and 31.

10.0 Reasons and Considerations

(a) Having regard to the fact the proposal is compliant with the framework plan set down under the Newcastle Local Area Plan and the need to maintain a density in accordance with the recommendations of the Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) Guidelines for Planning Authorities, the retention of no.s 1, 23, 24 and 42 would be accordance with the proper planning and sustainable development of the area.

(b) Having regard to framework plan set out under the Newcastle Local Area Plan 2012, Block E would be located on a portion of the site earmarked to be part of a

central amenity space to serve the area and as such would be contrary to the objectives of the Local Area Plan.

(c) The overall design, scale and layout of the proposed development would be acceptable in the context of the visual amenities of the area and the residential amenities of future residents. The proposal would, therefore, be in accordance with the proper planning and sustainable development of the area.

(d) The provision of improved pedestrian and cycling linkages from north to south and the main amenity space as proposed under condition no. 2(d) would enhance the quality of the residential development proposed, would not conflict with the objectives of the Newcastle Local Area Plan and would be in accordance with the proper planning and sustainable development of the area.

(c) The provision of a bond to ensure protection of trees and hedgerow to be retained on site during construction of the project is reasonable and would be in accordance with the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

23rd July 2018