



An
Bord
Pleanála

Inspector's Report 302089-18

Development

Amendment to Planning Register
Reference No. D11A/0191
incorporating the construction of a
new access road to the permitted
development, the resultant omission of
4 permitted car parking spaces, and
all associated ancillary site
development and landscaping works.

Location

'Deerfield House', Harold's Grange
Road, Rathfarnham, Dublin 18.

Planning Authority

Dun Laoghaire-Rathdown County
Council.

Planning Authority Reg. Ref.

D18A/0084.

Applicant(s)

Deerfield Properties.

Type of Application

Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First Party v Refusal.

Appellant(s)

Deerfield Properties.

Observer(s)

None.

Date of Site Inspection

23 November 2018.

Inspector

Des Johnson.

1.0 Site Location and Description

- 1.1. The site is located adjacent to, and to the east of Marlay Park, Rathfarnham. It is to the south side of Harold's Grange Road and to the north of the M50. The site forms part of a larger site for which permission was previously granted for housing development.
- 1.2. The general area is residential in character. To the north of the Harold's Grange Road are the Pine Valley and Kingston residential estates. The subject site obliquely faces an entrance to Pine Valley Park which is closed off to vehicular traffic other than serving 2 houses. A slip road serves approximately 11 Pine Valley houses to the east of the Pins Valley entrance.
- 1.3. Adjacent to the west of the subject site, on the same side of Harold's Grange Road, is a new residential development at Silverton. A short distance to the east are Kingston Hall and Grange Hill residential developments; both have direct access on to Harold's Grange Road. The lands immediately west of Grange Hill are boarded off and advertised as 'development land for sale'; these lands appear to include the subject site and surround a rectangular shaped site which includes the 'Ancrum' dwelling.
- 1.4. The Harold's Grange Road has a carriageway of approximately 6.5 metres along this stretch with a broken white line in the centre.
- 1.5. Photographs taken at the time of inspection are attached.

2.0 Proposed Development

- 2.1. Amendment of Register Reference D11A/0191 incorporating the construction of a new access road to permitted housing development from Harold's Grange Road, the omission of 4 car parking spaces, and associated and ancillary site development and landscaping works.
- 2.2. The site area for the proposed development is stated to be 0.072 hectares.

- 2.3. The stated need for the proposal arises as it is not possible, at this stage, to construct the total residential development as permitted. The proposed new access would facilitate the immediate construction of dwellings on the western portion of the site. The proposal would connect to the approved Part 8 road improvement scheme for Harold's Grange Road and has adequate sightlines.

3.0 Planning Authority Decision

- 3.1. Refuse permission for 2 reasons summarised as follows:

1. Material contravention of approved Part 8 scheme (PC/IC/01/15) for the upgrade of Blackglen Road/Harold's Grange Road and material contravention of a 6 year road improvement objective set out in the County Development Plan
2. Undesirable precedent for other relevant developments, adverse effect on the use of Harold's Grange Road by traffic contrary to the proper planning and sustainable development of the area.

Further Information

The planning authority decision was made following the submission of Further Information dated 23 March 2018. In summary this contains the following information:

1. The overall site includes 'Ancrum'. Due to unforeseen family circumstances the owner (who consented to the original application being made) is not in a position to vacate at this time. 15 units can only be completed when 'Ancrum' becomes available.
2. The proposed access would facilitate the construction and delivery of 24 family homes as part of Phase 2. It is the applicants' intention to deliver the entire scheme within the lifetime of the permission.
3. The applicant is not in a position to accept a temporary access.

4. It is possible to facilitate a right turning lane off Harold's Grange Road to serve the permitted development. Drawing P103 Rev 1 is submitted. This can be accommodated within the applicants' lands.
5. The Board granted permission for 'Silverton' to the west of the site with a single access road serving 21 dwellings and this did not include a right turning lane (Ref: 244400).
6. A Condition could be attached to a permission allowing for the unencumbered use of the access until such time as 'Ancrum' becomes available, whereupon the proposed access would be closed off and the original permitted access road would service the entire development.
7. Drawing No. P104 Rev 1 is submitted showing lands proposed to be ceded and taken in charge.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The overall site is the amalgamation of 3 main landholdings – 'Deerfield', 'Ancrum' and 'Grange Hill'. Under the parent permission (D11A/0191 and PL 06D.239837) vehicular access was from the north-eastern portion of the site only. 19 houses in the eastern section of the overall site have been constructed but no development has taken place on the central or western sections of the site, on which 3 existing houses remain. The applicant states that, due to circumstances beyond their control the central 'Ancrum' site cannot be developed at this stage, but the reason for this is not clear.

The proposal is not acceptable having regard to the views of the Transportation Department. The proposal is considered piecemeal and not in the interests of proper planning and sustainable development of the area.

3.2.2. Other Technical Reports:

Transportation Planning Department report (23 March 2018) states that the Council's Capital Projects Department has no objection, in principle, to permitting a temporary access road at this location but that a permanent access road would not

be permissible. This is referred to in item 2 of Further Information request dated 23 March 2018.

A second report by the Transportation Planning Department (21 June 2018) contains the following comments:

1. The approved Part 8 Scheme was not designed to accommodate a right turning lane at this location.
2. The overall scheme was permitted on the basis of 1 access arrangement for the overall site.
3. A condition requiring the closing off of the proposed access road upon completion of the overall development would be unenforceable.

4.0 Planning History

PL.06D.239837 – permission granted on appeal for the demolition of 5 houses and construction of 71 residential dwellings on a site of 2.6 hectares at ‘Deerfield’, ‘Ancrum’ and ‘Grange Hill’ at Harold’s Grange Road. (The Planning Authority’s refusal decision was under Reference D11A/0191).

An extension to the duration of the Boards permission has been granted up to 18 July 2022 (Reference D11A/0191E).

D15A/0287 – permission refused for the retention of boundary walls and railings with pedestrian gates enclosing an area earmarked for future road widening and associated concrete footpath at Grange Hill. 4 reasons:

1. Contravene materially condition 1 of PL 06D.239837
2. Contravene materially 6 year road objective for Harold’s Grange Road
3. Adversely effect the deliverability of the Road Improvement Scheme for Harold’s Grange Road
4. Inadequate information in respect of sightlines – endangerment of public safety by reason of traffic hazard and obstruction of road users.

PC/IC/01/15 – Approval granted in 2015 for Blackglen Road/Harold’s Grange Road Improvement Scheme under Part 8. This does not show any right-hand turn at the location of the proposed development.

5.0 Policy Context

5.1. Development Plan

The site is zoned A with the objective “to protect and/or improve residential amenity”. There is a 6-year road proposal and objective for Harold’s Grange Road (Table 2.2.5).

6.0 The Appeal

6.1. Grounds of Appeal

The grounds repeat information previously submitted by way of additional information. Other key points may be summarised as follows:

1. The proposed development would facilitate the delivery of an approved residential scheme and essential family housing
2. The roads objective for Taylor’s Grange Road is of a generic nature and is not specific enough for the proposed development to constitute material contravention.
3. The need for the proposed development arises from circumstances beyond the applicants’ control in respect of ‘Ancrum’.
4. This is not piecemeal development as the proposal would facilitate the phased delivery of 67 residential units with very minor alterations to the permitted site layout and minor alterations to the approved Part 8 Scheme for Harold’s Grange Road. There is no material contravention of the Part 8 approved road scheme.
5. The applicant proposes to close the subject entrance on completion of the entire development and once the Phase 1 entrance can be accessed to the scheme as a whole.
6. A right-hand turn can be provided and land is being ceded in order to facilitate the future road improvement scheme.

7. The proposed development would facilitate improved pedestrian linkages within this area.
8. The proposed development is of National importance permitting the construction of much needed dwellings. In the absence of permission this strategic site will remain undeveloped.

6.2. **Planning Authority Response**

No matters are raised to warrant a change of recommendation.

6.3. **Observations**

None

7.0 **Assessment**

- 7.1. The proposal is for the construction of a new access road to a permitted housing development, the omission of 4 permitted parking spaces and for associated site development and landscaping works. The extant permission, granted by the Board on appeal, was time extended up to 18 July 2022 (PL 06D.239837). A total of 19 houses in the permitted scheme have been constructed on the eastern portion of the site but the remainder of the overall site remains undeveloped to date. This includes a central portion – “Ancrum” – which is currently unavailable for development. It is stated that the proposed new access would facilitate the construction of 24 additional permitted houses. The proposed access is at the western end of the overall permitted site.
- 7.2. At the time of inspection, I noted hoarding along part of the road frontage of the permitted site and that the lands were advertised for sale. Publicly available information on the selling agents website states that the lands for sale are circa 4 acres and form part of a larger housing development known as Grange Hill, the first phase (19 houses) of which is completed. The next phase “which consists of the subject site has scope to deliver a range of development options subject to a slight variation of the existing grant of planning permission”. It also states that a revision of the existing planning permission could achieve higher densities. The lands

advertised for sale exclude the 'Ancrum' site and relate to the remaining portion of the overall site permitted under PL 06D.239837, excluding the portion already developed.

7.3. During the course of consideration of the application by the planning authority and the appeal, the appellants rejected the possibility of a temporary access but state that a condition could be imposed requiring the closure of the proposed access upon the completion of the overall permitted scheme which would then use the permitted access at the eastern end of the site. The planning authority argue that such a condition would be unenforceable. I submit that in circumstances where land ownerships may change and the possibility of revised applications for permission being made, the completion of the overall scheme as permitted is uncertain and, as such, the enforceability of such a condition is doubtful.

7.4. I submit that the key issues to be considered are as follows:

- Newspaper notice
- Contravention issues – Development Plan and Part 8 road scheme
- Traffic and public safety

7.5. I draw the Boards attention to the wording of the public newspaper notice. The notice refers to a proposed amendment to Register Reference D11A/0191. This reference is to a refusal of permission by the planning authority which was subsequently appealed and granted by the Board; the conditioned permission relating to the overall site is PL 06D.239837. On balance I consider that the wording of the newspaper notice is not misleading as the plans and particulars submitted to the planning authority formed the basis for the permission which was later granted by the Board.

7.6. Reason 1 for the planning authority's refusal states that the proposed development would materially contravene an approved Part 8 planning scheme (PC/IC/01/15) for the upgrade of Blackglen Road/Harold's Grange Road. The approved scheme does not provide for a right-hand turn at this location. The appellants argue that the proposed access would not constitute a material contravention and that a right-hand turn could be created with minor amendments to the approved scheme. While I accept that the approved road scheme does not provide for the proposed access, I

do not consider that it is reasonable to contend that the proposed development would materially contravene the approved road scheme. In the context of the scale of the approved Part 8 scheme and in circumstances where the approved scheme has not commenced, I conclude that the proposed access would not constitute a material contravention. I address the desirability of creating an additional access and public safety issues separately in this assessment.

- 7.7. Reason 1 states that the proposed development would materially contravene a six year road improvement objective as outlined in the County Development Plan. The appellants argue that this is not a reasonable conclusion as the Development Plan objective is broad in nature. I agree with this view. The achievement of the 6 year road objective would not be prevented by the proposed development and, as such, the proposed development would not contravene materially the objective for the upgrade of the Blackglen Road/Harold's Grange Road.
- 7.8. The practical implications of creating an additional permanent access on to Harold's Grange Road at this location need to be considered. The Harold's Grange Road is substandard in width and alignment, and the provision of footpaths on the southern side of the carriageway. It is heavily trafficked but within the 50kph speed limit. Kingston Hall apartment complex, and Grange Hill and Silverton residential developments already each have access on to this stretch on the south side of Harold's Grange Road in addition to other accesses serving individual housing plots. I submit that the proposed development represents piecemeal development and, in itself and by the precedent which a grant of permission would set, would adversely impact on the use of Harold's Grange Road and create serious traffic congestion.

7.9. **Environmental Impact Assessment**

Based on a preliminary examination of the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment such as would require the submission of an EIAR.

7.10. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development, the nature of the receiving environment and the proximity to 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.

8.0 Recommendation

8.1. I recommend that planning permission be Refused

9.0 Reasons

1. The proposal to create an additional access on this stretch of Harold's Grange Road, where the width and alignment of the carriageway is substandard, there is an absence of a continuous footpath along the southern side of the carriageway and there is already a multiplicity of accesses, would represent a piecemeal form of development which, by itself and by the precedent which a grant of permission would set, would adversely impact on the use of Harold's Grange Road and create serious traffic congestion. As such, the proposed development would be contrary to the proper planning and sustainable development of the area.

Des Johnson
Planning Inspector

18 December 2018