



An  
Bord  
Pleanála

## Inspector's Report ABP-303264-18

---

<b>Development</b>	Construction of dwelling with parking for 2 vehicles with an access by an established right of way.
<b>Location</b>	Lands to the rear of 13 Granville Crescent, Cabinteely, Co Dublin
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D18A/0537
<b>Applicant(s)</b>	Tuco Property Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Johnstown Resident Association
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	10 <sup>th</sup> February 2019
<b>Inspector</b>	Mary Crowley

# Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	5
3.1. Decision .....	5
3.2. Planning Authority Reports .....	5
3.3. Prescribed Bodies .....	6
3.4. Third Party Observations .....	6
4.0 Planning History.....	6
5.0 Policy Context.....	7
5.1. Development Plan.....	7
5.2. <b>Natural Heritage Designations</b> .....	8
6.0 The Appeal .....	8
6.1. Grounds of Appeal .....	8
6.2. Applicant Response .....	10
6.3. Planning Authority Response.....	11
6.4. Observations .....	11
6.5. Further Responses.....	11
7.0 Assessment.....	11
8.0 Assessment.....	<b>Error! Bookmark not defined.</b>
9.0 Principle.....	12
10.0 Residential Amenity .....	<b>Error! Bookmark not defined.</b>
11.0 Visual Amenity .....	<b>Error! Bookmark not defined.</b>
12.0 Property Values.....	<b>Error! Bookmark not defined.</b>
13.0 Other Issues.....	15

14.0	Recommendation .....	15
15.0	Reasons and Considerations .....	15
16.0	Conditions .....	16

## 1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.055ha lies to the rear of an existing 4 unit apartment block (conversion) at No 13 Granville Crescent. The appeal site is walled on all sides with an ESB substation in the south eastern corner. The site is bounded to the west and east by the rear gardens of the single storey houses along Granville Road and two storey houses along Woodlands Avenue, respectively and to the north-west by the rear gardens of No 12 and No 13 Woodlands Drive.
- 1.2. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

## 2.0 Proposed Development

- 2.1. The application submitted to DLRCC on the 5<sup>th</sup> June 2018 sought permission for a single storey 3-bedroom dwelling (120sqm) with parking for 2 vehicles with an access via an established right of way. Works to include 3 dedicated parking bays (servicing No. 13 Granville Crescent), landscaping of lands to extend Communal Amenity Space (servicing no. 13), new shield and boundary walls, landscaping, associated services and site works.
- 2.2. Following a request for further information the applicant submitted the following on the 1<sup>st</sup> November 2018 as summarised:
  - Revised site plan to include the vehicular entrance from Granville Crescent within the red line, parking bays and the right of way shared by the applicant and the owner of No 13 Granville Crescent
  - Height of house reduced from 5.585m to 4.710m
  - Revised site plans ceding a strip of land to facilitate landscaping of communal amenity area for the use of No 13.
  - Bin store area for use of both No 13 and the proposed dwelling.
  - Three hoop bicycle rack for No 13
  - Revised shield walls to 2 no parking pays on Granville Crescent.

- Autotrack layouts demonstrating the traffic manoeuvring involved in accessing and exiting the parking bays
- Letter from the owner of No 13 Granville Crescent authorising the applicant to carry out works to the shared entrance together with civil and landscaping works.
- Revised public notices

### 3.0 Planning Authority Decision

#### 3.1. Decision

- 3.1.1. DLRCC issued a notification of decision to grant permission on the 26<sup>th</sup> November 2018 granting permission subject to 12 generally standard conditions.

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

- The **Case Planner** in their first report requested further information in relation to the reduction in the overall height, full extent of works to be included in the red line boundary, details of vehicular entrance, details of individual vehicle movements and details of off street car parking. In their second report and having considered the further information recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by DLRCC reflects this recommendation.

##### 3.2.2. Other Technical Reports

- **Drainage Planning** – No objection subject to conditions relating to rainwater harvesting and rainwater discharge of parking surfaces and hardstanding.
- **Transportation Planning** – In their first report requested further information in relation to CAD demonstration of individual vehicle movements, details of vehicular entrance, details of off street car parking spaces and details of right of way within the scheme. In their second report and having considered the further information had no objection to the scheme subject to conditions in relation to SUDs and debris on the public road.

### 3.3. Prescribed Bodies

3.3.1. There are no reports from any prescribed bodies recorded on the planning file.

### 3.4. Third Party Observations

3.4.1. There are several observations recorded on the planning file from (1) Karen Thompson & Paul Maher, (2) Una & Brendan Finucane, (3) Elizabeth G Lawlor, (4) Gerard & Tanya Glynn, (5) Hugh & Margaret Byrne, (6) John & Elizabeth Fitzgibbon and (7) Joe Eager.

3.4.2. The issue raised relate to backland development, restricted access, noise and general disruption due to unapproved car parking, inadequate amenity space, anti-social behaviour, height, drainage, surface water, visual impact, loss of privacy, light pollution, noise, proximity to adjoining properties, problem with common sewage pipe (sewage overflow), traffic impact, Granville Crescent is a busy road, overshadowing, boundary wall is sinking with dangerous fissures and depreciation of property values.

## 4.0 Planning History

4.1. There was a previous appeal on this site that may be summarised as follows:

**PL06D.204253 (Reg Ref D03A/0595)** – In 2003 DLRCC refused permission for the development of a two storey single family house to rear of No 13 Granville Crescent, Dun Laoghaire, Co. Dublin for two reasons relating to (1) overdevelopment of the site with inadequate provision of private open space for the existing residential units and (2) visually obtrusive and out of character with the pattern of development in the area. The decision was appealed by the first party. In 2004 the Board refused permission for the following two reasons:

- 1) *Having regard to the backland nature of the site, it is considered that the proposed development, by reason of its location and close proximity to adjoining properties, would be visually obtrusive and out of character with the pattern of development in the area. The proposed development would seriously injure the amenities of the area and of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.*

2) *Taken in conjunction with existing development on the site, it is considered that the proposed development of a separate house would result in overdevelopment of the site by reason of inadequate provision of private open space for the existing residential units. The proposed development would, therefore, seriously injure the amenities of the area and of property in the vicinity and would, accordingly, be contrary to the proper planning and sustainable development of the area.*

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The operative Development Plan is the **Dun Laoghaire Rathdown County Development Plan 2016-2022**. The site is zoned **Objective A** where the objective is *to protect and/or improve residential amenity*. **Policy RES4 Existing Housing Stock & Densification** states that it is Council policy to improve and conserve housing stock of the County, to densify existing built up areas, having due regard to the amenities of the existing established residential communities and to retain and improve residential amenities in established residential communities. **Section 8.2.3.4(vi) Backland Development** states as follows:

*Backland residential development usually involves the establishment of a new single dwelling, and a building line to the rear of an existing line of houses. Residential development within the boundary of larger detached houses does not constitute backland development and will not be assessed as such. Where the Planning Authority accepts the general principle of backland residential development to the rear of smaller, more confined sites within the existing built up area, the following standards will apply:*

- *Generally be single storey in height to avoid overlooking.*
- *Adequate vehicular access of a lane width of 3.7m must be provided to the proposed dwelling (3.1m at pinch points) to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.*
- *A wider entrance may be required to a backland development to or from a narrow laneway.*

- *Existing dwelling and proposed dwellings shall have minimum individual private open spaces of 48 sqm each - exclusive of parking - for one/two bedroom units or 60 sqm plus for three/four or more bedroom units.*
- *Proposed single storey backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.*
- *Proposed two storey backland dwellings shall be located not less than 22 metres from the rear façade of the existing dwelling where windows of habitable first floor rooms directly face each other. Proposed two-storey backland dwellings should have a minimum rear garden depth for the proposed dwelling of 11 metres.*

*Where there is potential to provide backland development at more than one site/property in a particular area, the Planning Authority will seek to encourage the amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development. Piecemeal backland development with multiple vehicular access points will not be encouraged.*

## 5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. The third party appeal has been prepared and submitted by Johnstown Residents Association who request that the proposed development be refused permission. The appeal may be summarised as follows:

- **Refusal of multiple previous application on the same site** – Noted that the previous refusals including one upheld by An Bord Pleanála (see planning history above) considered the development of the site as “*backland development and not in accordance with the general character of the area*”; “*visually obtrusive and out of character with the area*” and overdevelopment



of the site. In addition a number of applications did not satisfy requirements in relation to surface water drainage and site access.

- **Backland development** – This is backland development that is not in accordance with the pattern of development in the area. The current proposal does not meet the conditions of Section 8.2.3.4 (vi) Backland Development in relation to open space (60sq for 3 or more bedrooms) leaving No 13 Granville Crescent with little or no amenity space. The requirement for 15m separation between the proposed new premises and the existing premises has not been achieved.
- **Car parking / vehicular access and restricted access** – There are already 2 parking spaces in front of No 13 meaning that the applicant is requesting 7 parking spaces for No 13. The scheme serves to exacerbate the restricted access issue in its proposal to deliver 5 additional dedicated car parking spaces within the redefined site boundary as provided in the further information.
- **Design / layout and visual intrusion and residential amenity** – The proposal, will be highly visible from adjacent properties. The contemporary design is not in keeping with the prevailing pattern of suburban development in this mature area. While a reduction in the overall height was addressed in the further information a significant height differential remains. The scheme will diminish privacy to bedrooms and rear gardens of existing single storey homes on Granville Road.
- **Concerns regarding environmental services** – DLRCC has not addressed the ongoing drainage issues relating to the existing house at No 13 and for which many years has resulted in adjacent residential properties being subjected to periodic instances of raw sewage flowing through the rear gardens.
- **Cited use of proposed sites location as an area for anti-social behaviour** – The lands were closed off by the owner some 10 years ago so the assertion in the planning application that it has been a focus of escalating anti-social behaviour over recent years is untrue.

6.1.2. The appeal was accompanied by copies of the observations submitted to DLRCC.

## 6.2. Applicant Response

6.2.1. The first party response to the appeal has been prepared and submitted by Infinitifocus, Architect, Engineering & Project Managers on behalf of the applicant and may be summarised as follows:

- **Scheme** - This is a carefully measured and constructed proposal that addresses the noted deficiencies of previous applications, that closely adheres to the tenets and criteria of the Development Plan, is respectful of neighbouring properties and their amenity and meets an urgent special need by providing a quality family home.
- **Planning History** – The appellant quotes extensively from the now 15 year old PL06D.2014253 decision which was based on the specific application of the then Development Plan. The applicant has examined and analysed the designs of previous refusals concluding that the current scheme reduces the eaves and ridge height of the proposed dwelling, there has been a holistic approach to developing the communal areas of the combined sites, foul drainage has been designed to the satisfaction of the Planning Authority and adequate car parking is provided to serve both the developments and No 13.
- **Backland Development & Established Right of Way** – Submitted that it can be demonstrated by historic and third party evidence that the subject site has never been regarded as a garden to the apartment block at No 13 and that a “right of way” has been established in legal existence for 55 years. The proposal complies with or exceeds the criteria given for backland development in the Development Plan. The scheme can rely on the precedent of numerous permissions for infill development and Policy 5.1.5 promoting sustainable densification.
- **Parking & Access** – The proposal formalises the current ad hoc parking requirement arrangement at No 13 and improves the entrance layout from Granville Crescent. The vehicular access adheres to the criteria set down in Section 8.2.3.4(vi) Backland Development as set out in the Development Plan.
- **Design Layout** – Previous proposals had ranged from 1½ storey dormer bungalows to 2 storey villas. The proposed dwelling is an L plan single

storey villa under low pitched roofs with all principal rooms opening into a private garden. The design and low profile of the roofs ensures that they will not over-shadow or that the house will be overbearing on adjacent properties.

- **Services** – It is proposed to replace this combined sewer with a new separate sewer system, a line for foul discharge and a line for surface water to serve No 13 and the proposed dwelling.
- **Anti-Social Behaviour** – Noted in the application that the site had become the focus for anti-social activity and illegal dumping. Submitted that this is a normal if troublesome issue with unattended sites and that the applicant cannot comment on the actions of previous owners.

### 6.3. **Planning Authority Response**

- 6.3.1. DLRCC refers to the previous planners report and state that the grounds of appeal do not raise any new matter which in the opinion of the Planning Authority would justify a change of attitude to the proposed development.

### 6.4. **Observations**

- 6.4.1. There are no observations recorded on the appeal file.

### 6.5. **Further Responses**

- 6.5.1. There are no further responses recorded on the appeal file.

## 7.0 **Assessment**

- 7.1. The scheme submitted to DLRCC on the 5<sup>th</sup> June 2018 sought permission for a single storey 3-bedroom dwelling (120sqm) with parking for 2 vehicles and access via an established right of way from Granville Crescent. Works also included a Communal Amenity Space and 3 dedicated parking bays servicing No. 13 Granville Crescent. Further information was submitted on the 1<sup>st</sup> November 2018 and included a revised red line boundary to include the vehicular entrance from Granville Crescent and parking bays; bin storage; bicycle rack together with autotrack layouts demonstrating the traffic manoeuvring involved in accessing and exiting the parking

bays. Accordingly this assessment is based on the planning application submitted on the 5<sup>th</sup> June 2018 as amended by further plans and details submitted on the 1<sup>st</sup> November 2018.

7.2. While this appeal is considered de novo I note the extensive reference to the planning history pertaining to this site including the previous refusal by An Board Pleanála. As pointed out by the applicant the previous Boards decision was made 15 years ago and was based on the specific application of the then Development Plan.

7.3. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Backland Development
- Access & Car Parking
- Drainage
- Other Issues

## 8.0 Principle

8.1. The operative plan for the area is the Dun Laoghaire Rathdown County Council 2016 – 2022. Under the provision of this Development Plan the site is zoned Objective A which seeks *to protect and / or improve residential amenity* and where residential development is permitted in principle subject to compliance, with the relevant policies, standards and requirements set out in plan.

## 9.0 Backland Development

9.1. The appellants are concerned with the backland nature of this scheme by reason of the restricted nature of the site and proximity to adjoining properties. Specific concern is raised in relation to visual amenity, overshadowing, loss of light, inadequate provision of open space, noise associated with car parking and proximity to adjoining properties.

- 9.2. This is a backland site within an established suburban area where the capacity of the site to absorb development is restricted. It is evident from the file together with my site inspection that the appeal site is not regarded as a garden or amenity area serving the apartment block at No 13. The site is a vacant compound that has been subject to significant dumping (site photos refer). The development proposed will involve clearing the site and this alone will improve the current situation. It is also noted that the area currently identified as an amenity space to the rear of No 13 (site photos refer) is in very poor condition with little or no obvious amenity value. While the overall area designated as communal open space for No13 (51 sqm) is limited it remains that proposed enhancements are to be welcomed.
- 9.3. I do not consider that the height of the scheme (as amended) would if permitted, form an unduly overbearing or dominant element when viewed from the adjoining properties or surrounding areas. I am also satisfied that the development in its architectural treatment, orientation and proximity to adjoining properties strikes a reasonable balance between the protection of the amenities and privacy of the adjoining dwellings in terms of overlooking and overshadowing. Further I consider the provision of 110 sqm (as stated) of private open space to serve the new dwelling to be acceptable.
- 9.4. Overall the proposed scheme strikes a reasonable and appropriate balance between meeting the density requirements necessary to achieve an effective and sustainable use of serviced lands while addressing the sites constraints and the established residential character of the surrounding area.

## **10.0 Access & Car Parking**

- 10.1. The appellant raises concerns that the scheme serves to exacerbate the restricted access issue in its proposal to deliver 5 additional dedicated car parking spaces within the redefined site boundary as provided in the further information.
- 10.2. No 13 is a two storey 4 unit block of apartments with 2 no walled off street parking spaces to the front of the building. The scheme provides for 2 no parking spaces to serve the proposed dwelling and 3 no dedicated parking spaces to the rear of No 13 together with the refurbishment of the existing parking bays at the front of the site to serve No 13. The scheme (as amended) also upgrades the existing entrance layout

by relocating and widening the driveway opening and providing 1m wing walls to both sides. The completed tracking layouts for each parking bay were plotted and submitted to the satisfaction of DLRCC.

- 10.3. Having regard to the amended plans I agree with the applicant that the proposal formalises the current ad hoc parking requirement arrangement at No 13 and improves the entrance layout from Granville Crescent. Given the location of the appeal site together with the layout of the proposed scheme (as amended) I am satisfied that the vehicular movements generated by the scheme would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area. Overall I consider the proposal (as amended) to be acceptable and I am satisfied that the proposed development will not result in the creation of a traffic hazard.

## 11.0 Drainage

- 11.1. I note the concerns raised in relation to drainage issues pertaining to No 13 and that the adjacent residential properties are subject to periodic instances of raw sewage flowing through the rear gardens.
- 11.2. The applicant submits that the existing combined sewer line serving No 13 was laid 60 years ago and that it has degraded and can in times of heavy rain be prone to flooding. It is proposed to replace this combined sewer with a new separate sewer system, a line for foul discharge and a line for surface water to serve No 13 and the proposed dwelling.
- 11.3. It is noted that DLRCC Drainage Planning had no objection to the scheme subject to conditions relating to rainwater harvesting and rainwater discharge of parking surfaces and hardstanding. Having regard to the information available on file I am satisfied that the proposed drainage works are acceptable and will improve a degraded system. This approach is confirmed by the grant of permission issued by DLRCC.

## 12.0 Other Issues

- 12.1. **Appropriate Assessment** - Having regard to the nature and scale of the proposed development comprising a new detached dwelling and its distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.
- 12.2. **EIA Screening** – Having regard to the nature and scale of the proposed development comprising a new detached dwelling in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.
- 12.3. **Development Contributions** – Dun-laoghaire Rathdown County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 14th December 2015. The proposed development does not fall under the exemptions listed in the scheme and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

## 13.0 Recommendation

- 13.1. It is recommended that permission be **GRANTED** for the reasons and considerations set out below.

## 14.0 Reasons and Considerations

- 14.1. Having regard to the site's location on serviced urban lands and the policy and objective provisions in the Dun Laoghaire Rathdown County Development Plan 2016-2022 in respect of residential development, the nature, scale and design of the proposed development, to the pattern of existing and permitted 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 residential or visual

amenities of the area or of property in the vicinity and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 15.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 1<sup>st</sup> November 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. Details of the materials, colours and textures of all the external finishes and boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**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.

4. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, 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.

**Reason:** In order to safeguard the residential amenities of adjoining



property in the vicinity

5. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

**Reason:** In the interest of visual amenity

6. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.

7. 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 the 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

---

**Mary Crowley**

**Senior Planning Inspector**

**10<sup>th</sup> February 2019**