



An
Bord
Pleanála

Inspector's Report ABP-303532-19

Development	Demolition of dwelling & outbuildings and construction of 8 dwellings.
Location	59, Bushy Park Road, Rathgar, Dublin 6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3760/18
Applicant(s)	Red Rock BPRKH
Type of Application	Permission.
Planning Authority Decision	Grant Permission subject to conditions
Type of Appeal	Multiple Third Party
Appellant(s)	(1) Margaret Walsh & Tony Carlin (2) Trevor Lloyd (3) Sylvia Brannigan (4) Philip & Deirdre Naughton. (5) John & Carmel Keane, Aoife & Paul Gallagher, Susan & Greg Murphy, Dora Forte.
Observer(s)	Rathgar Residents' Association
Date of Site Inspection	2 nd April 2019.
Inspector	Brid Maxwell

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.275 hectares and is located on the southern side of Bushy Park Road in Rathgar, Dublin 6. The site which is rectangular in shape has c26m frontage to Bushy Park Road and a depth of 108m. The site is occupied by a single storey dwelling set back circa 18m from the front roadside boundary of the site and set within a mature landscaped garden which includes an outdoor swimming pool to the rear of the dwelling.
- 1.2. To the west is No 65 Bushy Park Road, a property of similar area and dimensions occupied by the Multiple Sclerosis Society (MS) Care centre comprising a large building footprint of part single, part two and part three storey buildings. The appeal site shares its southern boundary with the rear garden of No 9 Laurelton a front gable dormer style dwelling. Adjoining to the east of the appeal site No 57 Bushy Park a large detached two storey dwelling. On the date of my site visit I noted development underway on this site pursuant to permission 2066/16 for construction of new infill two storey detached dwelling as a subdivision of this site. To the south east the rear garden boundaries of detached dwellings fronting onto Meadowbank. The front boundary of the appeal site is defined by a 2m high wall with security entrance gates. The area is predominantly residential in character with The Church of Jesus Christ of Later Day Saints located opposite to the north opposite the site.

2.0 Proposed Development

- 2.1. The proposal is set out in some detail in the reports accompanying the application which include
- Planning report by Hughes Planning and Development Consultants.
 - Traffic Report by Stephen Reid Consulting, Traffic and Transportation.
 - Arboricultural Assessment by Arborist Associates Ltd.
 - Services report by DC Turley and Associates.
 - Photomontage and CGIs 3D Design Bureau.
- 2.2. The proposal involves:
- Demolition of the existing dwelling and outbuildings;

- Construction of 8 contemporary style dwellings to consist of
 - (i) 3 no five-bedroom three storey over basement terrace dwellings fronting onto Bushy Park Road. Each dwelling to include a rear garden, 2no on curtilage car parking spaces and a south facing balcony at first floor level.
 - (ii) 1 no three-bedroom two storey detached dwelling located in the middle of the site to include a rear garden and 2 no on curtilage car parking spaces, and
 - (iii) A terrace of 4 no dwellings to the rear of the site consisting of 1 no four-bedroom two storey over basement dwelling, 2 no four-bedroom three storey dwellings and 1 no five-bedroom three storey over basement dwelling. Each dwelling to include a rear garden, 2 no on curtilage car parking spaces and a south facing balcony at first floor level.

The development also comprises (a) widening and upgrade of the existing vehicular entrance on Bushy Park Road and creation of an additional vehicular entrance on Bushy Park road (b) removal of existing front boundary wall to Bushy Park Road and replacement with a new 900mm high wall, landscaping, boundary treatment, SuDS drainage and all other ancillary works necessary to facilitate this development.

- 2.3 Proposed layout provides for three terraced 5 bed units located towards the front end of the site with parking provided in the shared frontage basement courtyard accessed from the western end of the site frontage. Access road serving the rear part of the site is aligned generally in the position of the existing site access to the eastern end of the site frontage. In the centre section a 3-bed detached unit is proposed with in curtilage parking spaces. To the south of the central unit the access road terminates in a courtyard area providing access to the four terraced rear units each with frontage parking spaces.

- 2.4 The existing front boundary is to be replaced with a wall of maximum height 900mm to facilitate sightlines from both proposed access points. Setback of the boundary wall provides for a minor increase in the footpath width at the site access. A shared surface equal priority arrangement is proposed on the access lane to the rear courtyard with a maximum internal speed of 5kph. Cycle storage for the mid terrace units will be located on the north side of the courtyard area while those units with side gate access to the rear garden will allow for storage in the rear garden sheds. Refuse bins will be collected from within the development with bin storage points for the terraced units located to the side of the access road.
- 2.5 In response to the request for additional information revisions were made to the proposal including reduction in parking provision from 17 spaces to 12 spaces. Details of proposed house 4 was revised including lowering of ground floor plate and parapet height reducing height of the building by 350mm to a total height of 5.750m and further design revisions to mitigate overlooking. Separation distance between units 5-8 was increased and first floor terrace removed. Alterations to No 5 by way of reduction in parapet height, increased separation distance and reduction in the length of the unit at first floor level.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 By order dated 2nd January 2019 Dublin City Council issued notification of its decision to grant permission for the development and 11 conditions were attached which included the following:

- Condition 2 Development Contribution €148,348.80 in accordance with the Development Contribution Scheme.
- Condition 3. Compliance with codes of practice drainage Division Transportation planning division and noise and air pollution section.

- Condition 4. Restricted hours of construction.
- Condition 5. Noise during construction.
- Condition 6. Adjoining streets kept free of debris.
- Condition 7. Compliance with Greater Dublin Regional Code of Practice for Drainage Works. SUDS Measures.
- Condition 8. Secure cycle parking.
- Condition 9. Payment of €4,000 per residential unit as a special contribution under S482C in respect of public open space provision.
- Condition 10. Bond.
- Condition 11. Street naming and numbering scheme.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 Initial Planning report notes discrepancies with regard to design of central unit No 4. Schedule of accommodation not provided. Separation distances inadequate. Flood risk assessment required given provision of subsurface bedrooms.

3.2.1.2 A request for additional information issued seeking justification for second vehicular entrance, reduction in car parking provision, details of cycle parking and layout of pedestrian movement within the site. Comprehensive schedule of accommodation. A daylight sunlight analysis for the proposed basement level habitable rooms. Request sought the omission of unit 4 or provision of minimum depth of 11m garden. Direct access for bin storage and removal. Provision for 22m separation distance to 9 Laurelton and units 5,6,7 & 8 at first floor level and 24m between second floor level of units 6,7 & 8 and rear of 9 Laurelton. Increase in separation distance between unit no 5 and 4&5 Laurelton.

3.2.1.3 Final Planner's report recommends permission subject to conditions.

3.2.2. Other Technical Reports

- 3.2.2.1 Engineering Department Drainage Division – No objection subject to compliance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0., separate foul and surface water systems, SUDS implementation.
- 3.2.2.2 Transportation Planning Division – No rationale provided for additional vehicular entrance and a single entrance is considered preferable. Car parking should be reduced to maximum 1.5 spaces per unit. Details of cycle parking and pedestrian movement to be explored.
- 3.2.2.3 Second Transportation Planning Division report considers that the provision of second entrance has been justified. Revised parking provision and cycle parking is considered acceptable. Surface treatment adequate in terms of pedestrian provision. No objection subject to conditions.

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

- 3.4.1 Third party submissions from local residents and representative associations raise objections also raised within the grounds of appeal which I have summarised as follows:

Inappropriate height and balconies compromise privacy and amenity.

Overdevelopment. Excessive density. Unacceptable piecemeal backland development.

Traffic hazard.

Design out of character.

Significant overbearing impact on houses to the east at Laurelton. Visually obstructive boxes replace current sylvan environment.

Significant negative impact on MS respite centre.

Noise and disturbance impacts.

Architectural style is aggressive and brutal.

Photomontages inaccurate given loss of landscaping. Inaccuracies within drawings and planning report.

Devaluation in property.

Notably deeds of property to No 1-6 Laureton prevent owners constructing development within a specified distance overlooking of 59 Bushy Park Road. Presumably a reciprocal requirement.

Site occupied by a perfectly good house. Demolition inappropriate

4.0 Planning History

4.1.1 No record of recent planning history on the appeal site.

4.1.2 History of sites in the vicinity include the following:

2066/16 57 Bushy Park Road adjoining to the east Permission granted by Dublin City Council for demolition of existing single storey extensions to the east of existing welling no 57 to be replaced by the construction of a new infill four-bedroom two storey with dormer detached dwelling.

ABP300812-18 3943/17 Application for construction of 3 no houses, all associated site development works, access, parking and boundary treatment works at the Barn Riversdale Avenue, Bushy Park Road. Refused 5/11/2018 on grounds of visual impact resulting in detrimental impact on Riversdale House protected structure and other historic structures in the vicinity. Overdevelopment contrary to proper planning and sustainable development.

PL29S221716 3954/06 Board upheld decision to grant permission for demolition of The Barn, Riversdale Avenue off Bushy Park Road and erection of 4 no houses around a central landscaped courtyard and all ancillary site works. Granted by the Board which limited the permission to three houses and required the coach house to be retained.

1074/00 Permission granted for various alteration and extension to the MS Respite Centre at 65 Bushy Park Road including an extension to the east side of the Main House at first floor level a conservatory extension to the east side of the main House at first floor level, a conservatory extension to the south side of the Main House at first floor level, a conservatory extension to the south side of the Main House at first floor level , a glazed extension to the dining room, a single storey promotions unit to the east of the main house and a single storey residential extension comprising 6 ensuite single bedrooms, therapy room sitting room staff room and sanitary and storage facilities and miscellaneous improvements to site landscaping and vehicular access. Total additional floor area 574 sq.m.

5.0 Policy and Context

5.1 National Policy

5.1.1 Project Ireland 2040 – National Planning Framework

5.1.2 The National Planning Framework includes a specific Chapter, No. 6, entitled ‘People Homes and Communities’. It includes 12 objectives among which Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Objective 35 seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.1.2 S28 Ministerial Guidelines.

- Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities. Department of Environment, Heritage and Local Government, May 2009.
- Urban Design Manual A best practice Guide. May 2009.
- Design Manual for Urban Roads and Streets, DMURS
- The Planning System and Flood Risk Management (including the associated 'Technical Appendices') Dept Environment Heritage and Local Government November 2009.
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities – Department of Housing Planning and Local Government March 2018
- Urban Development and Building Height Guidelines, Department of Housing Planning and Local Government, December 2018

5.2 Development Plan

The Dublin City Development Plan 2016-2022 is the operative Plan.

The site is zoned Z1. The objective is "*to protect, provide and improve residential amenities*"

Other relevant policies and standards include:

Section 16.2.1 Design Principles.

Section 16.2.2.2 Infill Development.

Section 16.10.2 & 16.10.3 Residential Quality Standards – Houses.

Section 16.10.8 Backland Development.

5.3 Natural Heritage Designations

5.3.1 The South Dublin Bay SAC (Site Code 000210) and South Dublin Bay and River Tolka SPA (Site Code 004024) are the nearest Natura sites, located circa 8km distant.

5.4 EIA Screening

5.4.1 Having regard to the nature and scale of the proposed housing development on zoned and serviced land, and to the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6 The Appeal

6.1 Grounds of Appeal

6.1.1 There are five third party appeals submitted by

- Margaret Walsh & Tony Carlin, 3 Laurelton, Bushy Park Road.
- Trevor Lloyd, 4 Laurelton. Bushy Park Road.
- Marston Planning Consultancy on behalf of John & Carmel Keane, 5 Laurelton, Aoife & Paul Gallagher No 6 Laurelton, Susan & Greg Murphy, 8 Laurelton, Dora Forte, 9 Laurelton.
- Philip & Deirdre Naughton, 2 Laurelton.
- OMS Architects, on behalf of Sylvia Brannigan, 1 Laurelton.

The appeals raise many matters in common and in the interest of brevity and clarity I have summarised the issues raised as follows:

- Overdevelopment of the site. Excessive density.
- Development is out of character with adjacent properties.

- Negatively impact on aesthetic appearance of surrounding area. Dominant obtrusive.
- Overlooking and overbearing impact.
- Inaccuracies on submitted plans.
- Loss of mature landscaping -invasion of privacy and security impacts.
- Deeds of property for 1-6 Laurelton prevent construction within a specified distance of no 59 Bushy Park Road and prevent modifications to properties overlooking. On grounds of reciprocity, fairness and natural justice the provisions of the covenant should also apply to the appeal site.
- Construction impacts - potential subsidence and structural damage.
- Precedent case ABP300812 decision of Board raises same issues. Refused by the Board.
- Proposal is contrary to the Dublin City Development Plan 2016-2022.
- Reasoning behind decision to grant is inherently flawed.
- Narrowness of the site reduces freedom to establish a new architectural character that fails to pay attention to building lines proportions, heights and parapets.
- Misrepresentation of photomontage with trees indicated to be removed.
- Provision of two entrances within 11m results in traffic hazard. Excessive parking.
- Diminution of property values.
- Within the appeal by Marston Consultants it is suggested that if Board are mindful to grant permission the second-floor elements of all houses No 6-8 to the rear of the site should be conditioned out and development set back at least 5m from the boundary. Upper floor windows in opaque glass. High level bedroom windows to unit 4 and planter box/terrace facing Laurenton should not be accessible for use as balcony to maintain amenity.
- Aggressive and brutal architectural style. No consultation with local residents.
- Considerable third-party financial cost in respect of appeal.
- Appeal of OMS Architects on behalf of Sylvia Brannigan notes significant impact of unit no 4 on 1 Laurelton. Should the Board consider a house at this location it should

be single storey only or failing this large picture window omitted to avoid overlooking. Second floor windows to units 1-3 have significant negative impact in terms of overlooking. Screening required from second floor bedroom of units 1-3. Redesign of windows required to prevent overlooking.

6.2 Applicant Response

6.2.1 Response is submitted by Hughes Planning and Development Consultants on behalf of the first party. It responds to the grounds of appeal as follows:

- The development as approved by the Planning Authority is consistent with the objectives of the development plan offering housing choice with an established area. Proposal constitutes an appropriate design response to the site context.
- Proposal represents a density of 28.5 units per hectare a significant increase on existing density of 3.5 units per hectare. Linear configuration is a site constraint.
- Private open space exceeds development plan standards and plot ratio is in line with standards.
- High quality development complies with Urban Design Manual – Best Practice.
- No overlooking, overshadowing or overbearing affects.
- Appropriate scale height and form. Finish with materials of the highest quality to ensure distinct scheme with its own character.
- High quality all round access for pedestrian and cycle movement.
- Presents positive aspect to Bushy Park Road.
- Energy efficient design.
- Hedges inside front boundary and on inside of eastern and western boundary walls retaining character of the area and integrating new development into the site
- Overlooking. It is not possible to deliver a minimum depth of 11 m to serve unit 4, however the omission of this unit would be at odds with the duty of the planning authority to ensure the most efficient use of underutilised service land.

- Unit 4 is appropriately designed with respect to the design of surrounding development and character of the area. Windows on rear (western) elevation do not serve habitable rooms and are opaquely glazed and recessed behind brick screening to mitigate overlooking.
- Revised rear block elevations were submitted as part of further information and these are contained in Drawing 1726-(02)- 102A.
- Careful design considerations applied to the development scheme to ensure no undue overlooking of neighbouring properties. No windows on east elevation of house 5 which is two storey and set back 1.03m from boundary.
- Houses 3 and 8 adjoining 65 Bushy Park contain no window on west elevations and are separated from boundary by 1m. Separation of 22m to No 9 Laurelton.
- Deeds of property to 1-6 Laurelton refer to no development taking place within 3m of the rear boundaries of 1-6. Same restriction does not apply at 59 Bushy park.
- High standard of construction will ensure no undue harm during basement construction process. Use off flood resilient construction methods in accordance with building regulations and good practice.
- Parking provision in accordance with development plan standards
- ABP300812-18 is not comparable to the proposed development. Refusal reasons relate to the protected structure. Notably inspector considered the proposal acceptable.
- Note ABP300201 is a comparable infill development.
- Value of adjacent properties will not be unduly impacted due to reasonable design and efforts to protect adjacent residential amenity.

6.3 Planning Authority Response

6.3.1 The Planning Authority did not respond to the grounds of appeal.

6.4 Observations

6.4.1 Rathgar Residents Association submission supports the third-party appeals:

- Proposal constitutes significant overdevelopment of this restricted site.
- Will result in significant negative impact on residential amenity of the residents of Laurelton.
- Alien uncompromising brutal modern design deliberately defies the established character of the area and will seriously degrade the architectural visual and residential amenity of the area.
- Adverse impacts in terms of size, bulk and design. Inadequate consideration paid by local authority in its consideration of impact on neighbouring residential amenity.

6.5 Further Responses

6.5.1 Trevor Lloyd 4 Laurelton in response to the other third party appeals notes his support of these appeals and reiterates his own grounds of appeal. Notes that conditioning omission of house no 4 will have no impact on amenity and privacy suffered by other residents 3-9 Laurelton. Would concur that decision ABP-300812 applies.

6.5.2 Marston Planning Consultancy on behalf of Laurelton Residents John & Carmel Keane No. 5, Aoife & Paul Gallagher No. 6, Susan & Greg Murphy No. 8, Dora Forte No. 9 in response to the first party response to the appeals reiterate grounds of appeal and contend that these matters are not adequately addressed by the first party . Proposal will set an undesirable precedent and result in significant loss of privacy and amenity to appellant's dwellings in Laurelton. Development is contrary to urban design guidelines and result in an incongruous form within the streetscape. Reduction in units 4 and 5 to 2 storeys will not address the visual impact. Inability of house no 4 to achieve minimum rear garden depth should lead to omission of the unit. It is contended that the issue of density should not outweigh amenity. Overshadowing and overbearing impact resulting in loss of privacy. Construction of basements has the potential to impact on structural integrity and stability of appellants dwellings and in the event of permission a full structural survey should be

undertaken on all properties bounding the application site. Car parking provision by reason of size is in excess of the standards contrary to policy. Decision ABP 300201 is not relevant. Appellants have a legitimate concern regarding reduction in property values.

6.5.3 Submission from Margaret Walsh and Tony Carlin, 3 Laurelton in response to the first party response to the appeals reiterate their own grounds of appeal. Note significant extent of local opposition to the development. Proposal is incongruent with style and character and form of the surrounding dwellings. Development is overbearing in the extreme, will overlook and interfere with privacy and result in overshadowing. Significant concerns regarding impact on security have not been addressed. Parking provision is insufficient and will give rise to further congestion. Maintain contention that covenant restricting construction within a specified distance of the common boundary with No. 59 Bushy Park Road or modification resulting in overlooking as attached to the deeds of property at 1-6 Laurelton is a reciprocal requirement. Subsidence concerns remain. Maintain the relevance of ABP300812. Proposal results in cramped development on a confined site resulting in overdevelopment.

6.5.4 Submission from Trevor Lloyd in response to the first party grounds of appeal questions the procedures of the Board in accepting submissions and cross circulation of same and asserts that the first party submission in response to the appeals raises new issues. Note that the appellants have not in principle objected to site development, rather to the manner of development. Contend that the first party has not addressed his specific grounds of appeal. Development of 2 blocks of 3 storey over basement houses completely ignores and disregards all zoning and policies. The mass, visual impact and overbearing form is out of character with the surrounding area and contrary to proper planning and development.

6.5.5 Submission by OMS Architects on behalf of Sylvia Brannigan, 1 Laurelton in response to the first party response to the appeals. Assert that the applicant has not addressed the substantive issues raised in the appeal submission. Take issue with the subjective and superficial contention regarding compliance with the Urban Design Guidelines.

7 Assessment

7.1 Having examined the file, considered the prevailing local and national policies, inspected the site and assessed the proposal and all submissions, I consider that the key issues arising in this appeal can be considered under the following broad headings:

Principle of Development

Quality of Design and Layout

Traffic, Access and Parking

Impact on Established Residential Amenity

Servicing and Appropriate Assessment

7.2 Principle of Development

7.2.1 As regards the principle of development the site is zoned Z1 – the objective “to protect, provide and improve residential amenities”. The site is centrally located within easy walking distance of good quality public transport in an existing serviced area. The proposal seeks to provide for an increased density of residential development on the site (increase from 3.5 units per hectare units per hectare to 29 units per hectare) in order to expedite the more efficient use of currently underutilised serviced land.

7.2.2 Whilst the established dwelling on the site is indeed, as noted by the third-party appellants, in a good state or repair and perfectly habitable, it is considered that the dwelling is of no significant architectural or heritage merit and the sacrifice of its demolition is appropriate in the circumstances. Given the single storey scale and large footprint of the existing dwelling its retention would not be feasible in terms of achieving a denser infill development form in line with the National Planning Framework with regard to the sustainable development of infill sites. I am of the

opinion that given its zoning, the delivery of residential development on this prime underutilised site in a compact form is generally consistent with the policies of the Development Plan the NPF and Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness in this regard. It is therefore appropriate to assess the merits of the proposal in its detail. On the matter of precedent cases cited by the third parties and the first party in response, I note that whilst these cases raise similar issues given their nature as infill sites, each case is considered having regard to its unique characteristics and context and therefore it is appropriate that the current proposal be assessed on its own merits.

7.3 Quality of Design and Layout

7.3.1 As regards the issue of residential amenity of the proposed dwelling units, I note that the floor areas of the proposed dwellings are generously proportioned in terms of internal space standards and private open space provision and provide for a high-end standard of residential amenity. Assessment of average daylight factor within the habitable rooms at basement level found that all rooms meet the recommended guidelines. BS8206-02 Code of practice for daylighting.

7.3.2 The proposed design is contemporary in character. The first party asserts that in terms of distinctiveness the proposal, through contemporary design creates a positive addition to the identity of the locality and serves as a high-quality distinct development. I consider that the nature and size of the site presents the opportunity for the development to establish its own character in terms of design. I note that the use of brick finish seeks to link the development to a predominant external finish in the wider locality. In my view the proposal provides for an appropriate infill presenting positively to the public realm.

7.3.3 Having regard to the characteristics of the site and character of development in the vicinity I concur with the local authority that it is appropriate that flexibility apply in terms of standards for public open space provision. Based on the site zoning and

context and ready accessibility of the location to a number of existing open space amenities on site provision is not required. I note that the local authority imposed a condition requiring a payment of €4,000 per residential unit as a special contribution in lieu of open space provision and this is appropriate.

7.3.4 As regards density the proposed density of 29 units per hectare which should be considered in the context of National Guidelines which state that the greatest efficiency in land usage is in the range of 35-50 dwellings per hectare and recommends that net densities less than 30 hectares would generally be discouraged in the interest of land efficiency. Having regard to the infill nature and size of the site and proximity to established low density residential development , I consider that the proposed density can be considered acceptable in this context. Having considered the design and layout I conclude that the proposal results in the creation of eight high quality modern dwellings, making for better use of zoned land whilst responding generally to the specific constraints arising on the site. As regards the performance of the proposal to the 12 criteria for sustainable urban development as set out in the Urban Design Manual, I am satisfied that the proposed layout performs positively.

7.4 Traffic, Access and Parking

7.4.1. I note the report by Stephen Reid Consulting which addresses the traffic issues. It notes that sightlines at the existing access are somewhat limited by the high boundary wall, including a projection of the wall at the right-hand side of the access, and the projecting walls of the adjoining access to the east. This is to be addressed as part of the site development and development currently underway on the adjoining site 2066/16 which will provide for mutually beneficial sightlines. The proposed development will not lead to any capacity issues for entering or exiting the site nor impact on the upstream and downstream junctions subject to addressing sightline requirements.

7.4.2 As regards the provision of a second vehicular entrance to the site I consider that the opening up of the site frontage, and provision for shared spaces in line with DMURS provides for an improved public realm. As regards parking provision the allocation in response to the request for additional information was reduced to a total of 12 spaces (1.5 spaces per unit) in line with development plan maximum standards in Parking Zone 3. Cycle parking is also provided for. Given the extent of traffic arising from an eight-dwelling proposal I am satisfied that the proposed development is acceptable from a traffic and parking perspective.

7.5 Impact on Established Residential Amenity.

7.5.1 The third-party appellants express significant concerns regarding overshadowing, overbearing impact and overlooking. As regards overshadowing I note the daylight and sunlight analysis submitted by 3D design bureau. The assessment calculates the impact of the development on daylight and sunlight of the windows and rear gardens of existing neighbouring dwellings 57 Bushy Park Road, No's 1-10 Laurelton and 65-67 Bushy Park Road. The assessment considers sunlight to existing gardens and concludes that there is no impact to sunlighting primarily due to orientation in relation to existing gardens. The review of the vertical sky component of all windows of neighbouring dwellings concluded that the proposed development will have an imperceptible impact on adjacent properties. The study of annual probable sunlight hours on the windows with a southerly aspect found that the proposal will have an imperceptible impact and all assessed windows comfortably satisfy the criteria in the Recommended BRE Guidelines "Site Layout Planning for daylight and sunlight". 2011. I regard the analysis undertaken to be reasonable and having regard to orientation and design of the development I consider that overshadowing is imperceptible.

7.5.2 As regards overlooking I note the relationship to the adjacent dwellings on Laurelton including those of the third-party appellants, I note the efforts within the scheme which seek to mitigate overlooking of neighbouring properties including provision for no windows on side gable of proposed house no 5, the stepping down of proposed

house no 5 to two stories in height. I have however a number of concerns arising in regard to the overlooking and overbearing impact of the proposal arising from the design of the rear block houses 5-8 and the resulting interface with the rear gardens of dwellings at Laurelton and also in relation to the MS Respite centre. I consider that the provision of two storeys over ground floor level results in an undue impact in terms of overlooking and overbearing effect and it is therefore my view that the rear block should be reduced to two storeys in height to mitigate impact. I consider that this matter can be addressed by way of condition. As regards the central dwelling No 4 I note the its setback distance of 11 m from the eastern boundary of the site and consider that on the basis of this distance and the proposed height of the structure as set out in response to the request for additional information the overlooking of rear gardens 1-2 Laurelton is mitigated to a degree. I consider however that a more restricted aspect to opposing first floor windows of unit no 4 would further ameliorate the impact arising. I consider that the design appropriately mitigates the impact on the adjacent MS Respite Centre to the west. As regards the submissions regarding the restrictions applying to the deeds of property at 1-6 Laurenton there is no evidence that such a restriction applies to the appeal site.

7.5.3 As regards construction impacts including noise and disturbance, structural issues or subsidence any such issues arising can be appropriately mitigated by way of best practice construction methods. A number of third parties raise concerns with regard to security and questions of increased exposure to intrusion, however I note that whilst the context of established dwellings will change there is no evidence or reason to predict that the proposed development will give rise to any such increased risk. I consider that subject to modifications as outlined the proposed development is acceptable in terms of its impact on established residential amenity.

7.6 Servicing and Appropriate Assessment

7.6.1. As regards servicing, technical reports on file raised no specific concerns in terms of public sewer capacity and public water supply. As regards flood risk the assessment by DC Turley and Associates notes that groundwater flooding is unlikely given the

site's low water table, however basements will incorporate flood resilient construction methods in accordance with current building regulations and good practice.

- 7.6.2 On the matter of appropriate assessment, having regard to nature and scale of the proposed development the fully serviced nature of the site and proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site

7.7 Recommendation

- 7.7.1 The proposed development on lands zoned Z1 is acceptable in terms of land use planning and sustainable development. The contemporary design and scale of the development will render this a significant infill intervention in the vicinity, but it is not regarded as unacceptable having regard to the context of the site and nature of impacts arising in the surrounding area. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

Reasons and Considerations

Having regard to the Z1 zoning objective for the area, the central location, the design and form of the proposed development 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 be generally in accordance with the Dublin City Development Plan 2016-2022, would not seriously injure the amenities of adjacent residential neighbourhoods or of the property in the vicinity, would not be prejudicial to public and environmental health 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.

Conditions

1. The proposed development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further information submitted on 29th day of November 2018 except as may otherwise be required in order to comply with the following conditions

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (i) Proposed dwellings 6, 7 and 8 shall be reduced to two storeys in height to match proposed dwelling 5.
 - (ii) First floor windows to front elevation of proposed house 4 shall be replaced with high level windows. Alternatively, in respect of window to bedroom 2 this shall be provided to southern elevation.

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: In the interest of visual and residential amenity.

3. Prior to the commencement of development details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and in the interest of visual amenity.

4. Proposals for an estate / street name, house numbering scheme and associated signage shall be submitted to and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers shall be provided in accordance with the agreed scheme. No advertisements / marketing signage relating to the name of the development

shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interests of urban legibility.

5. Water supply and drainage arrangements, including the 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 proper standard of development.

6. Entrances from the public road and the internal road network serving the development shall be in accordance with the detailed requirements of the planning authority for such works.

Reason: In the interest of amenities and public safety.

7. 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 development.

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

8. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

9. During the construction and demolition phases, the proposed development shall comply with British Standard 5228 - Noise Control on Construction and open sites Part 1.

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

10. Prior to the commencement of development, the developer shall submit and obtain the written agreement of the planning authority to a plan containing details for the management of waste within the development.

Reason: In the interest of the residential and visual amenities of the area.

11. 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 "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.

12. The construction of the development shall be managed in accordance with a Construction Management Plan which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction and demolition waste.

Reason: In the interest of public safety and residential amenity.

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or other security to secure the provision and satisfactory completion of roads, footpaths, water mains. Drains,

open space and other services required in connection with the development coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting the 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. 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 the Board to determine the proper application of the terms of the Scheme.

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

- 15 The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of public open space. The amount of the contribution shall be agreed between the planning authority and the developer, or in default of such agreement, the matter shall be referred to the Board for determination. 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 updated at the time of payment in

accordance with the changes in the Wholesale Price Index – Building and Construction (Capital Goods) published by the central statistics office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Bríd Maxwell

Planning Inspector

17th May 2019