



An  
Bord  
Pleanála

## Inspector's Report ABP-303663-19

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| <b>Development</b>                  | 5 no. residential units.                  |
| <b>Location</b>                     | New School Road, Newcastle, Co.<br>Dublin |
| <b>Planning Authority</b>           | South Dublin County Council               |
| <b>Planning Authority Reg. Ref.</b> | SD18A/0402                                |
| <b>Applicant(s)</b>                 | Geotechnical Investigations Limited       |
| <b>Type of Application</b>          | Permission                                |
| <b>Planning Authority Decision</b>  | Refuse Permission                         |
| <b>Type of Appeal</b>               | First Party                               |
| <b>Appellant(s)</b>                 | Geotechnical Investigations Limited       |
| <b>Observer(s)</b>                  | None                                      |
| <b>Date of Site Inspection</b>      | 18 <sup>th</sup> April, 2019              |
| <b>Inspector</b>                    | Stephen Kay                               |

## 1.0 Site Location and Description

- 1.1. The appeal site is located to the south of the centre of Newcastle Village and is accessed via a new road that runs to the south off the Main Street. This access road accesses a recently constructed primary school building on the eastern side (St Finian's NS) and access to the appeal site is available via a roundabout located at the southern end of this access road.
- 1.2. The site is bounded to the east by a hedgerow and drainage ditch, identified in the LAP as a Burgage hedgerow. To the west, the site has a c.3 metre high fence to the recently constructed school access road. To the south, the site is bounded by undeveloped lands that are significantly overgrown and to the north, the site is bounded by undeveloped lands.
- 1.3. The site itself is currently undeveloped and is characterised by low level vegetation. The stated area of the appeal site is 0.242 ha. It is noted that the appeal site is located entirely within the boundary of application Ref. SD17A/0378; ABP Ref. 301421.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the construction of 5 no. three bedroom two storey dwellings located with streets to the south and north. The total floor area of the proposed residential development is stated to be 584 sq. metres.
- 2.2. A total of three different house types are proposed, type H, J and K and a layout with off site shared parking is proposed. An area of public open space measuring c.350 sq. metres is proposed at the western side of the site.
- 2.3. The development proposes connections to existing footpath, mains sewer and all associated site development works.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority issued a Notification of Decision to refuse Permission for 7 no. reasons which can be summarised as follows:

1. That the proposed development does not comply with the provisions of the Newcastle LAP under which the site is zoned as public open space and a neighbourhood park.
2. That in the absence of an overall layout for lands located to the south and east, the form, layout and linkages in the proposed development may prejudice connectivity to and the future development of adjoining lands.
3. That the siting and layout of the development is such that seriously inadequate levels of residential amenity would result.
4. That the development is contrary to Objective GI21 of the county development plan which requires the submission of an archaeological assessment.
5. That no bat survey was submitted with the application in contravention of Objective GI28 of the LAP.
6. That the car parking requirement and provision is not identified and no turning area suitable for refuse vehicles is provided.
7. That the insufficient details have been submitted with regard to surface water drainage, and attenuation, foul drainage and water layout.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The report of the Planning Officer sets out the location of the site, the relevant plan provisions and the extensive planning history of the surrounding lands. The report states that the site is located in an area that is zoned open space (Objective OS) under the provisions of the County Development Plan and that the provisions of the Newcastle LAP are applicable. Residential development on lands zoned open space are open for consideration. Stated that the OS zoned lands represent Burgage Park

South as identified in the LAP. Noted that the inspectors report in respect of Ref. 301421 indicates that Block E (on which the appeal site is located) is to be omitted and subsumed into the open space area and that under the Newcastle LAP, the portion of the site where Block E is located is indicated as being part of the large neighbourhood park.

### 3.2.2. Other Technical Reports

Water Services – further information required relating to surface water layout and calculations including attenuation which was undersized in the permitted development to the north.

Parks and Landscape - recommend refusal of permission for reasons relating to poor quality design and lack of detailed landscape proposals. Noted that no bat survey undertaken and inadequate SuDS proposals.

Housing Department – Note that Part V condition should be attached.

Roads Department – Note that no details regarding parking have been submitted. Turning area at east end of Road 3 has been reduced in scale.

### 3.3. Prescribed Bodies

Irish Water – Further information recommended as there are concerns as there are no water or foul drainage drawings submitted with the application.

Department of Defence – Note the location in close proximity to Casement aerodrome and that there may be noise implications for the development.

### 3.4. Third Party Observations

Cairn Homes – request that it is ensured that there is access maintained to adjoining lands to the east and south from the end of Street 4.

## 4.0 Planning History

The following planning history is noted and is of relevance in the development:

South Dublin Co. Co. Ref. SD17A/0378; ABP Ref. 301421 – Permission granted by the Planning authority and decision upheld by An Bord Pleanála for development on lands to the north of the current appeal site and also including the appeal site.

Permitted development comprised the construction of 46 no. residential units. It is noted that the appeal to the Board was a first party appeal against conditions and that the Board decided to deal with the appeal against conditions rather than determining the case de novo. It is noted that one of the conditions which was the subject of the first party appeal was condition No.2 and that condition No.2(e) requires the omission of Block E and that this area would be subsumed into public open space. The decision of the Board was that Condition No.2€ should be retained in the decision and the Reasons and Considerations stated on the Board Order includes (c), *‘Having regard to framework plan set out under the Newcastle LAP, 2012 it is considered that Block E provides an unsatisfactory design arrangement in relation to the adjoining open spaces and streets’*. A note attached to the end of the Board Order states that *‘The Board agrees with the Planning Authority that an alternative proposal for the Block E site that contributes to the streetscape and provides passive surveillance would be appropriate’*.

South Dublin Co. Co. Ref SD16A/0224; ABP Ref. PL06S.247964 - Permission refused by the Planning Authority and the Board for a residential development of 46 no. residential units on lands comprising the current appeal site and lands to the north. The reason for refusal issued by the Board related to the inadequate provision of public open space in the development.

## 5.0 Policy and Context

### 5.1. Development Plan

The South Dublin County Council Development Plan, 2016 – 2022, is the current Development Plan for the area. The appeal site has two zoning objectives. The southern part of the site is zoned Objective OS, while the northern part is zoned Objective RES-N. These zoning objectives are as follows;

- Objective RES-N *'to provide for new residential communities in accordance with approved area plans'*.
- Objective OS *'to preserve and provide for open space and recreational amenities'*.

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

The appeal site is not located within or close to any European site.

### 5.3. EIA Screening

Having regard to the scale of the proposed development, the fact that it will be connected to the public water and drainage systems and the separation of the site from sensitive ecological receptors, 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party grounds of appeal:

- That the appeal site was the subject of condition 2(e) of the decision of the Planning Authority under Ref. SD18/0378 ABP Ref. 301421-18. This stated that Block E shall be omitted and replaced with replaced with public open spaces area. The report of the Planning Officer on this issue stated that the principle of appropriately positioned dwelling units on Block E is accepted and that this could form part of a future planning application.
- Regarding compatibility with the Newcastle LAP, Figures 6.10 and 6.11 of the LAP does not identify open space in this area. There is no open space area indicated in the LAP north of the east – west road, the location of which was applicant’s architects in April, 2016.
- The location of this road did not change in any correspondence with the planning authority and at no stage in discussions was it indicated that the site was on anything other than residential land.
- That the applicant has ceded a significant area of the neighbourhood park under Ref. SD17A/0378.
- The residential status of the site was accepted in Ref. SD17A/0378, the parent permission for the site.
- Regarding reason for Refusal 2 relating to the overall layout to the south and east, and that the form and layout of development would prejudice connectivity to and future development of these lands, the application layout does not affect any linkages to these adjoining lands. Streets 1-4 have been permitted. Compliance documentation regarding these roads is being submitted to SDCC under Ref. SD17A/0378.
- Regarding residential amenity and reason for refusal No.3, the siting and orientation of the houses as directed by the Planning Authority under Ref. SD17A/0378, create a streetscape along street No.4, surveillance along the

eastern hedgerow and footpath and frontage onto the public open space and street 3. Rear gardens are in accordance with the required standards and the design and layout of houses is such that overlooking will not occur.

- The refusal reason relating to archaeology (Reason No. 4) and compliance with Objective G1 2.1 is not valid as an archaeological report was submitted to the Planning Authority as part of the application for the overall development SD17A/0378.
- Regarding contravention of Objective G1 28 of the LAP relating to the submission of a bat survey, this issue was considered in the parent permission (Ref. SD17A/0378; ABP Ref. 301421) and the Board omitted the requirement for a bat survey in its decision to grant permission.
- Regarding reason for refusal relating to car parking and the provision of a turning area, the layout of Street 3 is the same as permitted under SD17A/0378; ABP 301421.
- There are a total of 20 no. parking spaces proposed for the five proposed houses plus the six houses permitted already and fronting onto Street 3. An additional two spaces are shown on the plan and can be provided if required. The rate of parking provision equates to 1.8 spaces per house or two spaces per house if the additional 2 no. spaces are included.
- That the details of surface water attenuation, foul drainage and water layouts have been discussed at numerous meetings with the council and has been addressed in conditions attaching to Ref. SD17A/0378.
- In conclusion, the key issue with this appeal relates to the zoning of the site and the fact that the site is located within the residential zone. If not developed, the site would result in substandard development of the overall site in terms of density and compliance with the Sustainable Residential Development in Urban Areas Guidelines.



## 6.2. **Planning Authority Response**

The response of the planning authority confirms the decision and states that the issues raised have been covered in the report of the Planning Officer.

## 7.0 **Assessment**

7.1. The following are considered to be the main issues in the assessment of the subject appeal:

- Principle of Development and Land Use Zoning
- Design, Layout and Residential Amenity
- Ecology
- Drainage and Site Servicing
- Other Issues
- Appropriate Assessment

### 7.2. **Principle of Development and Land Use Zoning**

7.2.1. The appeal site is located on lands that are partially zoned Objective RES-N (new residential development, and partially Objective OS (open space) under the provisions of the South Dublin County Development Plan, 2016-2022. The case made by the first party appellant is that the area is not identified as open space in the Newcastle LAP (Figures 6.10 and 6.11) and that there is no open space area indicated north of the east – west road, the location of which has been confirmed to the applicant’s architects by the local authority.

7.2.2. The zoning of the site as per the County Development Plan is that there is a new road indicated running north south and which appears to align with the constructed New School Road that forms the eastern boundary of the appeal site. An area of open space (Objective OS) lands are located at the southern end of this street with roads running east – west from this point and the location of this open space area approximately coincides with the appeal site.

7.2.3. The exact location of the appeal site relative to the lands zoned open space is difficult to determine exactly, however from a review of the zoning map I estimate that in excess of half (the southern part) of the appeal site comprises lands that are zoned Objective OS. As per Table 11.15 of the County Development Plan, residential development is listed as a use that is open for consideration on lands that are zoned Objective OS (open space). The principle of residential development on the part of the site zoned objective OS is therefore acceptable subject to detailed assessment against the principles of proper planning and sustainable development, and the relevant policies, objectives and standards set out in this Plan. In this regard I note the fact that the report of the Planning Officer in the case of South Dublin Ref. SD17A/0378 which included the appeal site as well as a larger area to the north, raises a number of concerns with regard to the layout proposed in what is now the appeal site (Block E in the previous larger application) but concluded that '*... the Planning Authority accepts the principle of appropriately positioned dwelling units or houses (akin to Blocks F and G) in place of Block E within the southern section of the site, which would contribute to the streetscape and the visual amenity of the area and provide a degree of passive surveillance. This could form part of a future planning application*'. On the subject of the principle of the use of the appeal site for residential development, I also note the fact that the note attached to the Board direction on the appeal for this case (Ref. 301421) states that '*The Board agrees with the Planning Authority that an alternative proposal for the Block E site, that contributes to the streetscape and provides passive surveillance would be appropriate.*' The Planning Inspector reporting on Ref. 301421 did however have concerns regarding the principle of residential development on Block E having regard to the predominately Objective OS zoning of this area and the provisions of the LAP.

7.2.4. The situation with regard to the overall density of the site on foot of the development of the current appeal site for residential use is not clearly set out in either the current application or Ref. SD17A/0378; ABP Ref. 301421, however I note the fact that the first party owns a significant area of lands to the south of the current appeal site and which are indicated as being provided as a public park as per Ref. SD17A/0378; ABP Ref. 301421. The extent of this public open space area would appear to extend significantly beyond the area of lands zoned Objective OS (open space). Also of

relevance in my opinion, is the fact that the permitted layout under Ref. SD17A/0378; ABP Ref. 301421 comprises two storey terraced houses with a net density excluding units omitted by condition (including the current appeal site / Block E) of c.25 units / ha. The inclusion of the 5 no. units proposed on the appeal site would increase the overall density to c.28 no. units per ha. A case could therefore be made that the appeal site could be the subject of a higher density residential format that would assist in increasing the density of overall development although it is accepted that the site is part of a wider LAP area which makes the assessment of density more complicated. Such a format could potentially include for duplex and / or apartment units.

- 7.2.5. Reason for Refusal No.1 attached to the Notification of Decision issued makes reference to the fact that the site is contrary to the provisions of the Newcastle LAP however residential is an open for consideration use on Objective OS lands and, for the reasons set out above relating to the overall availability of public open space and the provision of increased density of development, I consider that the development of the site for residential purposes is acceptable in principle, notwithstanding the fact that the majority of the site is zoned open space and comprises the Burgage South Park as indicated in the LAP.

### **7.3. Design, Layout and Residential Amenity**

- 7.3.1. The design of the proposed houses provides for units in Block E that face outwards towards all surrounding roads and open space areas. The layout proposed achieves the objective of increasing passive surveillance however I do not consider that the basis for the retention of Condition 2(e) requiring the omission of Block E in Ref. 301421 is addressed in the current layout. The Board Direction in Ref. 301423 makes reference to Block E providing an unsatisfactory design arrangement in relation to the adjoining open spaces and streets. I do not consider that the revised layout included in the current application addresses these concerns. Specifically, the proposed elevation of new development to Street 3 would, in my opinion be poor, with blank side elevation to unit 2 and a largely blank rear elevation to Unit 1.

- 7.3.2. The Planning Authority have raised concerns with regard to the inter relationship between the proposed units and the potential impact on residential amenity and I would agree that there are a number of aspects to the proposed layout that are in my opinion such as to result in a poor quality layout and resulting impact on residential amenity. In particular, the private amenity space for Unit No.4 would be located between two blank gables / elevations and the private amenity space to serve Unit No.1 located such that it would be open to public areas on two sides and therefore require high walling in this location fronting the Burgage path to the east and south of the site.
- 7.3.3. The extent of the private amenity spaces proposed to be provided is considered to be sub standard by the Planning Authority, however the areas proposed range between 60 and 66 sq. metres and are in my opinion acceptable. Similarly, the report of the Planning Officer identifies a number of issues relating to the internal unit layouts, however it is my opinion that these are generally acceptable.
- 7.3.4. The external elevations propose the use of render and feature elements in what appears to be either stone or brick. The basic designs proposed are generally consistent with the permitted development to the north and are in my opinion acceptable.

#### 7.4. **Ecology**

- 7.4.1. Reason for Refusal No.5 attached to the Notification of Decision to Refuse Permission states that no **bat survey** for the overall site has been submitted and that it is not therefore possible to assess roosting, foraging and feeding impacts on bat species, such that the proposed development is contrary to Objective GI 28 of the LAP. The first party appeal states that this issue was considered in the parent permission (Ref. SD17A/0378; ABP Ref. 301421) and the Board omitted the requirement for a bat survey in its decision to grant permission. This is noted and the conditional appeal Ref. 301421 included an appeal against the attachment of a condition requiring a bat survey to be undertaken. Having regard to this, and to the fact that the history file in respect of ref. 301421 indicates that a bat survey of the area and associated derogation licence was undertaken at the time of the

development of the school site, it is considered that the reason for refusal relating to bats and compatibility with Objective GI28 is not sustainable. .

- 7.4.2. The site is located such that proposed development would be undertaken within c.10 metres of the Burgage hedgerow to the east of the site. The separation distance proposed is in my opinion such that this feature and associated ecology would not be adversely impacted.

## 7.5. Drainage and Site Servicing

- 7.5.1. The report on file from the Water Services Department of the council notes the fact that the submitted drawings do not indicate foul or surface water drainage layouts proposed. Concerns are also expressed with regard to the surface water attenuation for the overall development including the site of Ref. SD17A/0378. The report on file from Irish Water also express concerns regarding the lack of water and foul drainage layouts and state that the submission of these is required to ensure that the proposal is consistent with Irish Water standards.
- 7.5.2. The first party response on these issues states that the details of surface water attenuation, foul drainage and water layouts have been discussed at numerous meetings with the council and has been addressed in conditions attaching to Ref. SD17A/0378. It may be correct that discussions are ongoing with the council regarding drainage issues, however, for the purposes of the subject appeal, it is considered necessary that the water and foul drainage layouts would be provided such that the approval of Irish Water to a connection could be obtained.
- 7.5.3. The issue relating to **surface water attenuation** is also in my opinion of significance and the stated deficit of 40 percent in the attenuation capacity for the overall development is an issue which requires clarification prior to any granting of permission for the subject development on what are, at least partially, identified as open space lands in the development plan and LAP. No surface water attenuation details have been submitted with the application or as part of the first party appeal. If the drainage issues including attenuation capacity are the subject of discussions it is to be expected that details of what has been agreed would have been included in the current application.

## 7.6. Other Issues

- 7.6.1. **Parking** is proposed to be provided with a total of 20 no car parking spaces to serve the 5 no. units in the current application plus the 6 no. units located to the east in Block D. I note that these 20 no. spaces includes two spaces located outside of the application boundary and adjoining Block D. This equates to 1.6 spaces per unit and is considered to be acceptable. I note the comments in the Roads and Transport Department report on file regarding the turning area at the end of Street 3, however it appears to me that the size of the turning area in this location is the same as that previously proposed and permitted under Ref. SD17A/0378; ABP Ref. 301421 is acceptable given the length and function of the street.
- 7.6.2. The report of the Roads and Transport section also highlight concerns regarding the maintenance of **connectivity** from Street 4 to the undeveloped lands to the east of the site and that this street should be made available for taking in charge. The maintenance of access to lands to the east is also raised by the adjoining landowner (Cairn Homes) in a submission to the Planning Authority. In the event of a grant of permission this could be required by way of condition. I note the comments of the Roads and Transport section regarding the layout of Street 4 and that it does not demonstrate future links and connectivity to lands to the east, however these issues are not evident to me from the layout submitted.
- 7.6.3. With regard to **housing and Part V** compliance, in view of the fact that the first party in this case is the developer of the adjoining site to the north. A Part V proposal and associated costings for units has been submitted with the application and I note the comments of the Housing Department of the council on file which states that in the event of a grant of permission details of the units, types and costings will require to be agreed. In the event of a grant of permission a condition relating to Part V is therefore appropriate.
- 7.6.4. With regard to **archaeology**, the first party appeal contends that the refusal reason relating to archaeology (Reason No. 4) and compliance with Objective G1 2.1 is not valid as an archaeological report was submitted to the Planning Authority as part of the application for the overall development SD17A/0378. I would accept that the issue of archaeology on the overall site has been addressed as part of Ref. SD17A/0378; ABP Ref. 301421 and, in the event of a grant of permission, it is

considered appropriate that a condition requiring archaeological monitoring and recording as required would be attached. Similar requirements were included in the permission granted under Ref. SD17A/0378, (Conditions Nos. 25, 26 and 27).

## **7.7. Appropriate Assessment**

- 7.7.1. The closest European sites to the appeal site are the Glenasmole Valley SAC located c.8km to the south east and the Rye Water Valley / Carton SAC located c.7km to the north of the appeal site at the closest point.
- 7.7.2. Having regard to the nature and scale of the proposed development which is proposed to be connected to the public water supply and drainage networks, and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. Having regard to the above, it is recommended that permission be refused based on the following reasons and considerations:

## **9.0 Reasons and Considerations**

1. Having regard to the layout of the proposed development, in particular the location and layout of private amenity spaces serving Units 1 and 4 and presentation of the development to Street 3 and the Burgage footpath to the east, it is considered that the proposed development would have a negative impact on the visual amenity and character of the area and result private amenity spaces that are subject to overbearing visual impact and lack of privacy. The proposed development would therefore seriously injure the amenities of residential properties in the vicinity, would result in a sub standard form of residential development for future occupants and would be contrary to the proper planning and sustainable development of the area.

2. In the absence of detailed layouts for foul drainage and water supply layouts, and surface water attenuation proposals and calculations for the site and adjoining development lands to the north, the Board is not satisfied that it has been demonstrated that the proposed development would not result in a risk of surface water flooding and would be capable of connection to the existing public drainage network in the vicinity of the site. The proposed development would therefore be contrary to IE Policy 1 (water and wastewater) and IE Policy 2 Objectives 4 and 5 (SuDS) of the South Dublin County Development Plan and would therefore be contrary to the proper planning and sustainable development of the area.

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Stephen Kay  
Planning Inspector

16th May, 2019