



An  
Bord  
Pleanála

## Inspector's Report ABP-303977-19

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<b>Development</b>	Modifications to approved Residential Development consisting of 4 extra Apartment Units and 6 extra Car Parking Spaces.
<b>Location</b>	Carton Grove, Dublin Road, Maynooth County Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	181321
<b>Applicant(s)</b>	Orivo Properties Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant of Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	1. Limetree Hall Res. Ass.
<b>Observer(s)</b>	2. Robert White & Others
<b>Date of Site Inspection</b>	18 <sup>th</sup> of September 2019
<b>Inspector</b>	Caryn Coogan

## 1.0 Site Location and Description

- 1.1. The site is located in Maynooth Co. Kildare. It is located with a residential estate called 'Carton Grove' which is positioned along the main Dublin Road, R148 into Maynooth town. On the opposite side of the Dublin Road, is a large shopping complex that includes a Tesco's, a McDonald's and carparking.
- 1.2. Carton Grove is near completion. The estate consists of three storey residential terraced houses with pitched roofs. The subject of this appeal is an additional floor onto a permitted three storey curved apartment block. The apartment block is semi-circular in shape in order for it to sit neatly into a triangular portion of the overall site. The apartment block is located alongside a strategic roundabout upon entering Maynooth. Currently, the apartment block has a brick finish is near completion, and it is 9.9 metres in height with a flat roof.
- 1.3. The apartment block is served by the estate road which has a signalled junction onto the Dublin Road.
- 1.4. To the north of the site is Limetree Hall, a small residential estate of two/ three storey dwellings. To the west is a roundabout on the R148 Dublin Road and to the south is the McDonald's, Tesco's and a large shopping precinct.
- 1.5. The total site area is 4.0213 Ha.

## 2.0 Proposed Development

- 2.1. The proposed development is for an additional floor onto an existing and near completed apartment block within Carton Grove housing estate. The apartment block is currently three storeys and has a flat roof.
- 2.2. The additional floor onto the apartment block appears like a penthouse because it is setback from the main elevation building line. It is 339 sqm., and includes 4No. apartments,
  - 2No. one bedroom apartments;
  - 2No. two bedroom apartments.
  - There are 6No. carparking spaces proposed to cater for the additional apartments.

## 3.0 Planning Authority Decision

### 3.1. Decision

Kildare Co. Co. granted the proposed development subject to 7No. standard planning conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. *Planning Reports*

The planning authority is in line with the decision to grant permission for the proposed development. The further information submitted on the 28<sup>th</sup> of January 2019 from the applicant included:

- A shadow analysis
- Photomontages from 5No. viewpoints
- A cross-section through the site
- Responses to the third-party concerns
- Revised elevation treatment on the portion facing north

#### 3.2.2. *Other Technical Reports*

*Irish water:* No objection

*Water Services:* No objection

*Fire Service:* No objection

*Transportation Department:* No objection

*Housing section:* No objection

*Environment Section:* No objection

### 3.3. Third Party Observations

There was strong objection to the proposal from residents of the adjoining Limetree Hall estate citing;

- Overshadowing

- Size, height and overdevelopment
- Loss of privacy
- Unauthorised access/ removal of hedging
- Site notice

## 4.0 Planning History

The parent permission for the entire development was granted under planning registration number **09/246** which was for 141No. dwellings on the site, and an extension of the duration of the permission was granted under reference **14/1002**.

## 5.0 Policy Context

### 5.1. Development Plan

#### ***Maynooth Local Area Plan 2013-2019***

**HP1** It is the policy of the Council to facilitate sustainable development in Maynooth

**HP3** It is the policy of the Council to encourage appropriate densities for new housing in different locations in the town while recognising the need to protect existing residential communities and established character of the area.

#### ***Kildare County Development Plan n2017-2023***

Chapter 17 – Development Management Standards

### 5.2 National Policy

#### **National Planning Framework 2018**

The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018 states new residential development in cities should be directed into locations within the existing built up service areas.

#### **Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):**

These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children’s children.

The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

**Sustainable Urban Housing, Design Standards for New Apartments, Guidelines (DoEHLG, 2015):**

The primary aim of these guidelines is to promote sustainable urban housing, by ensuring that the design and layout of new apartments will provide satisfactory accommodation for a variety of household types and sizes – including families with children - over the medium to long term. These guidelines provide recommended minimum standards for:

- floor areas for different types of apartments,
- storage spaces,
- sizes for apartment balconies / patios, and
- room dimensions for certain rooms.

The appendix of the guidelines provides guidance in terms of recommended minimum floor areas and standards.

**Urban Development and Building Heights, Guidelines for Planning Authorities (DoHPLG, 2018)**

These guidelines encourage a more proactive and flexible approach to securing ‘compact urban growth’ through a combination of increased densities and heights, while ensuring quality development and balancing amenity and environmental concerns. The Guidelines note that the setting of generic maximum height limits, if

inflexibly or unreasonably applied at local level, can undermine wider national policy objectives and instead, continue an unsustainable pattern of development whereby cities and towns continue to grow outwards rather than consolidating and strengthening the existing built up area.

## 5.2. **Natural Heritage Designations**

The Rye Water Valley/ Carton SAC is 600metres to the north of the subject site.

## 5.3. **EIA Screening**

Having regard to the planning history of the site, the brownfield nature of the subject site, together with the scale of the proposed development, 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**

#### **6.1.1 *Limetree Hall Residents Association***

A summary of their third-party appeal is as follows:

- The houses of Limetree Hall were built first and cost the owners multiple sums compared to the price of one apartment. The apartment block should be kept at three storeys as all houses and apartment blocks in the area are three storeys. The visual impact arising from the four storeys will devalue their residential properties.
- Ovivo Properties did not erect the site notice in accordance with the legislation. The application should be invalidated.
- The parent permission, 09/246 was extended in 2014 under 14/1002, and it cannot be extended further. The modifications should be refused on these grounds.

- The applicant has recently constructed an unauthorised access onto Carton Grove to the access road of Limetree Hall which is a private estate road. The parent permission did not provide for such an access. The applicant has failed to comply with previous permissions and should be refused on this basis. The applicant should remove the road and reinstate the boundary.
- When purchasing their houses, the residents of Limetree Hall understood the building would be a creche, not a four storey apartment block. The submitted drawings are misleading and failed to acknowledge or assess the impact on Limetree Hall.
- The application did not include daylight or sunlight assessment. The residents are extremely concerned about the loss of sunlight.
- The additional floor and associated balconies will impact negatively on neighbouring properties in terms of overlooking and overshadowing.
- Limetree Hall includes 35No. dwellings, there are more than 1100No. people living in Carton Grove and Carton Wood, and there are no childcare facilities provided. This is against section 28 of Guidelines on Childcare Facilities which requires 20No. childcare spaces for every 75No. residential units.
- The provisions of the town park at the eastern end of Carton Avenue and to the north of Carton Grove should be prioritised. Carparking at the adjacent soccer pitches results in parking overflows into their estate.
- The proposal fails to comply with the following policies of the **Maynooth LAP 20313-2019**

HP1, HP3, HP4 HP7 and HPO2

#### **6.1.2 Residents of 1, 16 and 17 Limetree Hall**

The development overlooks their properties. Their dwellings are family homes, the proposed development is perennial in nature, therefore greater regard should be given to the overlooking issue.

There are a number of glazed elements on the north gable that look directly into gardens and bedrooms, this creates an obvious privacy issue. Opaque glass does

not provide adequate protection and the glass could be replaced with see through planes in the future

The balconies wrap around the building on the northern gable which promotes noise and disturbance.

The penthouse has a large glazed area promoting noise and disturbance.

There is a concern regarding overshadowing, this was not addressed at planning application stage.

There were photographs submitted at a later date to illustrate the points

## 6.2. **Applicant Response**

There was no response from the applicant to the appeals.

## 6.3. **Planning Authority Response**

It states to refer to the Planning Report on file.

## 7.0 **Assessment**

7.1 Having undertaken a site visit and having regard to the relevant policies relating to the subject site, the previous planning history on the site, together with landuses and building heights in the vicinity of the site, the nature and scale of the proposed development, I consider that the main issues relating to the proposed development can be assessed under the following headings:

- General Compliance with National Guidelines & Standards and local planning policy
- Visual Impact & Residential Amenity
- Other Issues
- Appropriate Assessment

## 7.2 **Compliance with National Guidelines & Standards and local planning policy:**



Given that the subject site is located on lands zoned for residential purposes in the current Maynooth LAP, the principle of development at this location is considered acceptable and in compliance with the general thrust of *the Sustainable Residential Development in Urban Areas (DoEHLG, 2009)*. The 2009 Guidelines updated the *Residential Density Guidelines for Planning Authorities (1999)* continue to support the principles of higher densities on appropriate sites in towns and cities and in this regard, I consider that it is reasonable to support the development potential of the subject site in accordance with said guidelines. The development proposes an additional 4No. residential units in the form 2No. one bedroom apartments and 2No. two bedroom apartments. In the context of the subject site, the Guidelines recommend a net density of between 35-50 units per hectare and in this regard, and the proposed development is in accordance with this threshold. I have no objection in principle to the proposed density in principle.

The proposed development, if permitted, would see the permitted apartment block rise from 9.9m in height to 13.2m. In terms of the proposed apartments, the *Sustainable Urban Housing: Design Standards for New Apartments, DoECLG December, 2015* are considered to be relevant. These guidelines update the guidelines from 2007 and specific policy objectives contained in these guidelines take precedence over policies and objectives of development plans. The aims of the guidelines are to uphold proper standards for apartment designs and to ensure that new apartment developments will be affordable to construct. Chapter 3 of the Guidelines provide Design Standards and I am satisfied that the development as proposed, generally accords with the stated requirements in terms of floor areas, room sizes, storage areas, aspect, floor to ceiling heights and private amenity spaces.

The proposed development seeks to provide an additional floor to an already permitted/ constructed three storey apartment building within a wider residential development where the prevailing building height is three storeys. The principle of a residential development, which includes apartments is acceptable, given the location

of the subject site within Maynooth's growing commercial and residential precinct along the Dublin Road and its current residential zoning. The provision of 4No. additional units is in compliance with the National Planning Framework and other National Guidelines in support of sustainable urban living.

### **7.3 Visual Impact & Residential Amenity**

In relation to the overall height and scale of the proposed development, the Board will note that the overall height is raised as a concern by residents to the north of the development in the adjoining Limetree Hall residential estate, which is predominantly three storeys in height. The proposed development, if permitted, would see the permitted apartment block rise from 9.9m in height to 13.2m. The third party appeal from Limetree Hall residents states by reason of its height and overall mass, it will result in an inordinate visual impact and intrusion on the adjoining residential estate including its public open space and impact adversely upon the existing dwellings.

While I acknowledge the third-party submissions, I do not consider 13.2 metres to be an excessive height given its location alongside a large retail site, which is in excess of 13metres in height. Furthermore the ridge heights of the adjoining Limetree Hall developments are at 65.43m to 66.84m respectively, and the proposed finished ridge height of the revised apartment block is 69.23metres.

I note the separation distance between the proposed building and the existing two storey house at Limetree Hall. I am cognisant of the *Urban Development and Building Heights Guidelines for Planning Authorities*, which encourages a more proactive and flexible approach to securing 'compact urban growth' through a combination of increased densities and heights, while ensuring quality development and balancing amenity and environmental concerns. Having considered the Shadow Analysis submitted to the planning authority on 28<sup>th</sup> of January 2019, I note there will be no undue loss of amenity associated with the development due to overshadowing, having regard to the separation distances from adjoining residential properties.

The overall proposal was revised to include a cutback balcony, opaque screen added and a kitchen window relocated to reduce overlooking to the north. A certain level of overlooking will occur from the permitted three storeys, and the revised additional floor will not result in an undue increase of overlooking onto adjoining properties.

I note the photomontages submitted in support of the proposed development which seek to depict the visual impact associated with the proposed additional floor as opposed to the permitted development. On balance the revised scheme looks better when viewed from the surrounding area due to the triangular configuration of the overall site adjoining an important roundabout and road intersection. A more notable building envelop balances with the legibility of the scale and height of the Tesco building on the opposite side of the road. I am generally satisfied that the development can be accommodated and would be acceptable in accordance with the *Urban Development and Building Heights Guidelines*.

The proposed additional floor represents an efficient use of serviced land and contributes to a greater mix of housing unit types and sizes which will result in a more sustainable development in the longer term. The development would therefore, be acceptable in terms of the proper planning and sustainable development of the area.

#### **7.4. Other Issues**

The development is accessed from an existing road serving the entire estate, and there is adequate additional parking to cater for the proposed development in the form of 6No. extra carparking spaces

There is no objection to the servicing of the proposed additional floor in terms of water services.

Appropriate development contributions are applicable in relation to the additional apartments.

All relevant conditions attached to the parent permission should be strictly adhered to.

Issues relating to the site notice and an alleged unauthorised access are beyond the remit of the Board.

### **7.5. Appropriate Assessment**

The site is not located within any designated site. The closest European Site is the Rye Valley/ Carton SAC SAC located approximately 600metres north of the site. Having regard to the location of the subject site within an established residential area, together with the nature and scale of the proposed development on zoned lands and the planning history of the site, I am satisfied that there is no potential for impact on any Natura 2000 site, warranting Appropriate Assessment.

### **8.0 Recommendation**

I recommend that planning permission be granted for the proposed development subject to the following stated conditions.

### **Reasons and Considerations**

Having regard to:

- (a) the residential zoning objective for the subject site in the Maynooth LAP,
- (b) the objectives of the National Planning Framework - Project Ireland 2040 issued by the Government in February, 2018, which seeks to pursue a compact growth policy and to deliver a greater proportion of residential development within existing built up areas,

- (c) the Guidelines for Planning Authorities on Urban Development and Building Heights issued by the Department of Housing, Planning and Local Government in December, 2018, which outlines the need to provide more compact forms of urban development,
- (d) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of Housing, Planning and Local Government in March, 2018, which outlines the need for apartment type developments in particular to meet growing demand,
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) issued by the Department of the Environment, Heritage and Local Government in May, 2009, which promotes higher residential densities on residential zoned land in suitable locations, and
- (f) the pattern of existing and permitted development in the area and wider area,

It is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of height, density and scale in this location, would not seriously injure the residential amenities of neighbouring property, would be acceptable in terms of pedestrian and traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as revised by the additional information received on 28<sup>th</sup> of January 2019, 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 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. (a) All relevant conditions attached to previous grants of planning permission for the subject site, Planning register reference 09/246, as extended by planning register reference 14/1004, shall be strictly adhered to. This planning permission shall expire on the same date as planning register reference 14/1002.

**Reason:** In the interests of clarity.

3. Water supply and drainage arrangements, including the disposal of surface water, which shall be adequately attenuated on site prior to discharge, shall be in accordance with the detailed requirements of the planning authority.

**Reason:** In the interest of public health and to reduce the potential for flooding.

4. No additional development shall take place at roof level including any lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunications aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** In order to protect the visual amenities of the area and to permit the planning authority to assess any such development through the statutory planning process.

5. 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. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

6. A plan containing details for the management of waste (and in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in

particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interests of protecting the environment.

7. Site development and building works shall be carried out only between the hours of 0800 to 1800 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

8. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and 3 (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

9. 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance 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 and maintenance of the development until taken in charge.

10. 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.



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Caryn Coogan  
Planning Inspector

27<sup>th</sup> of September 2019