



An
Bord
Pleanála

Inspector's Report ABP-304193-19

Development	Residential development. Demolition of all structures on site, construction of 4 no three bed two storey residential terraced units with associated private gardens, provision of 6 car parking spaces, landscaping, boundary treatment, all engineering & site development works.
Location	Lands at No. 38 Millmount Grove, Dundrum Road, Dublin 14.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D19A/0038
Applicant(s)	Randelswood Holdings Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Randelswood Holdings Ltd.
Observer(s)	None.
Date of Site Inspection	16 th September 2019.
Inspector	Brid Maxwell

1.0 Site Location and Description

- 1.1. The appeal site which has a stated area of .09 hectares is located on lands at No 38 Millmount Grove to the west of Dundrum Road in Dublin 14. The area is mixed in character with low rise artisan cottages and quasi industrial, retail and workshop uses. The site is crudely rectangular in shape and is bounded by a mix of block stone walls, fencing, mature trees / hedgerows to the north south and east and the River Slang to the west. The site is circa 35m west of the Dundrum Road and is substantially lower than the Dundrum Road with access via a narrow laneway.
- 1.2. The site is currently significantly overgrown along the boundary with the river and includes a number of garage type structures, including shipping containers, building materials and other machinery. To the west of the site on the opposite side of the River Slang are Ferrenboley cottages. To the south and east are a number of single storey dwellings fronting Millmount Grove. To the north is a garage (car repair) and vehicle storage yard, and the northern part of the appeal site incorporates a wayleave over which access to the garage is attained.
- 1.3. Millmount Grove is a narrow cul de sac c 3.6m wide with some significant pinch points and serves approximately 38 residential units. Sightlines at the junction with Dundrum Road R117 are severely restricted to the south and the access road is close to the junction of Dundrum Road and Bird Avenue.

2.0 Proposed Development

- 2.1. The proposal as described in public notices involves permission for a proposed residential development consisting of :

“Demolition of all existing structures on site and the construction of 4 no three bed two storey residential terraced units with associated private gardens, provision of 6 no car parking spaces, landscaping, boundary treatment and all engineering and site development works necessary to facilitate the development.”
- 2.2. The detail of the proposal is outlined in the application which includes a number of reports as follows:

- Flood risk Assessment, CS Consulting Group.
- Arboricultural Report, Charles McCorkell.
- Engineering Services Report, CS Consulting.
- Planning Statement, Downey Planning.

2.3 The proposed dwellings are located within the southern part of the appeal site with communal car parking area on the northern part. The proposed design is contemporary in character incorporating a render finish with blue/black slate roof and zinc / metal clad windows.

3.0 **Planning Authority Decision**

3.1. **Decision**

3.1.1 By order dated 15 March 2019 Dun Laoghaire Rathdown County Council issued a notification of its the decision to refuse permission for the following reasons:

1. Milmount Grove is a substandard laneway in both width and alignment with no provision for pedestrians and other vulnerable road users. The proposed development would result in an intensification of traffic movement at this location, resulting in endangerment of public safety by reason of traffic hazard. The proposed development is therefore contrary o the proper planning and sustainable development of the area.
2. Poor visibility exists for vehicles exiting Milmount Grove onto Dundrum Road, and vice versa. The proposed development would increase the number of vehicles using this substandard junction, resulting in traffic hazard or obstruction of road users and would set an undesirable precedent for similar development. The proposed development is therefore considered to be contrary to the proper planning and sustainable development of the area.
3. The proposed development, by reason of inadequate provision of car parking spaces within the curtilage of the site for existing and proposed development, would endanger public safety by reason of a traffic hazard or obstruction of road users due to the inappropriate proposed number and design of off-street car parking on roads

in the area and affecting local amenity. The proposal would therefore set an undesirable precedent, is therefore considered to be contrary with the proper planning and sustainable development of the area.

4. The proposed development would give rise to overlooking and loss of privacy to the adjoining houses, No's 10-14 Millmount Grove which would therefore seriously injure the amenities and depreciate the value of these properties and would contravene the zoning objective in the Dun Laoghaire-Rathdown Development Plan 2016-2022 'to protect and/ or improve residential amenity' and be contrary to the proper planning and sustainable development of the area.

- 3.1.2 The applicant was also advised that insufficient details were submitted in relation to drainage issues, bin storage and proposed pocket park and construction management plan and would need to be addressed should a further application be submitted on the site.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 3.2.1.1 Planner's report noted concern regarding overlooking of property 10-14 Millmount Grove. Proposal unacceptable given the substandard nature of the laneway, substandard visibility and inadequate parking.

3.2.2. Other Technical Reports

- 3.2.2.1 Transportation section report recommends refusal on grounds of endangerment of public safety due to inadequate parking, undesirable precedent for similar such development. Substandard nature of the Millmount Grove laneway is emphasised.
- 3.2.2.2 Water Services Report, Further information required with regard to piped network, attenuation system. Clarify extent of permeable paving.

3.3. Prescribed Bodies

- 3.3.1 Irish Water submission indicates no objection subject to conditions.

3.4. Third Party Observations

- 3.4.1 Submission from Tim Gunning, 142 Gleann Ni Ri supports proposal. Access road and junction need to be improved to enable safe access and egress. The applicant also owns No 9 Millmount and demolishing this house to enable new road access would be a planning gain for the entire area.¹
- 3.4.2 Submission from, Shane O Toole, O Toole Architects, who lives at No 36 Millmount Grove. Not in principle against the proposal however notes that stone filled gabions which were originally on the site fell into the river Slang and have reduced the effective width of the river presenting a distinct flood hazard.
- 3.4.3 Helena Mowlds, 37 Millmount Grove notes that the established cottages on Millmount Grove are over 100 years old and sewage system under sever strain. Manhole in front garden overflows with raw sewage. Flood risk. Boundary wall to no 37 of concern. Rodent population on the site and health and safety impacts.
- 3.4.4 Submission from Liam Byrne, 17 Highridge Green objects to the development. Occupies premises at the site where he has been running a motor cycle repair and servicing business for 38 years. Application is invalid as consent for application has not be made. Site lacks appropriate road access. Traffic hazard due to capacity and issues and inadequate sightlines.
- 3.4.5 Submission from Power Kelly and company overlooking of Millmount Grove, development out of character, inadequate private space. Unduly intensive development. Traffic hazard. Sewage systems inadequate.

4.0 Planning History

- **D13A0040 PL06D241906** A larger site which incorporated to the appeal site and also lands to the north east (Total Site area 0.65ha) Refusal at 38 Millmount Grove, 9 Millmount Grove and 17 Millmount Terrace for demolition of a number of buildings construction of a residential development consisting of 7 houses and widening upgrading and improvement works to access road from Windy Arbour to Millmount Grove and associated site development and boundary treatment works to Millmount Grove. Refusal reasons were as follows:

¹ I note that no 9 Millmount does not form part of the appeal site.

“Having regard to the existing character of the area and the proximity of the site to adjacent single storey cottages, it is considered that the proposed development would be visually dominant by reason of its design, height, bulk, scale and massing would create an overbearing visual impact when viewed from the environs of the site, would overlook and impinge on the private amenity open space of neighbouring dwellings, and would be out of character with the pattern of development in the area. The proposed development, would, therefore, seriously injure the amenities and depreciate the value of property in the area and be contrary to the proper planning and sustainable development of the area.

The existing cottage at number 9 Millmount Grove is an important part of the architectural heritage and makes a positive contribution to the streetscape and historic landscape in the area. It is considered that its demolition would be contrary to Policy AR12 of the current Development Plan. The proposal would, therefore, be contrary to the proper planning and sustainable development of the area.

Having regard to the quantity and quality of private open space, it is considered that the proposed development would constitute overdevelopment of this restricted site and would lead to a poor form of residential amenity for the intended occupants. The proposed development would, therefore, materially contravene the provisions of the development plan for the area and be contrary to the proper planning and sustainable development of the area.”

- **D03A331 PL06D205434** The Board overturned the decision of the Council to refuse permission to Liam Byrne at 38 Millmount Grove for retention of storage container, on the following grounds “Having regard to the pattern of development in the vicinity, and the established nature of the use on the site for the sale, storage and repair of motorcycles, it is considered that the development for which retention is sought would not seriously injure the amenities of the area or depreciate the value of properties in the vicinity of the site, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.”

5.0 Policy Context

5.1. Development Plan

5.1.1 The Dún Laoghaire -Rathdown County Development Plan 2016-2022 refers.

The site is zoned 'Objective A' "*To protect and or improve residential amenity*"

A small section of the site along the western boundary is zoned 'Objective F'. The zoning seeks to "*To preserve and provide for open space with ancillary recreational amenities.*"

Section 8.2.3.5 General Requirements and standards for Residential development.

Policy LHB25: Rivers and Waterways* It is Council policy to maintain and protect the natural character and ecological value of the river and stream corridors in the County and where possible to enhance existing channels and to encourage diversity of habitat. It is also policy (subject to the sensitivity of the riverside habitat) to provide public access to riparian corridors to promote improved passive recreational activities.

Development proposals in riparian corridors will be considered providing they:

- Dedicate a minimum of 10m each side of the water's edge for amenity, biodiversity and walkway purposes (where practical).
- Where practical ensure no development – including clearance and storage of materials - takes place within a minimum distance of 10m measured from each bank of any river, stream or watercourse.
- Preserve the biodiversity of the site.
- Involve no land filling, diverting, culverting or realignment of river or stream corridors.
- Have no negative effects on the distinctive character and appearance of the waterway corridor and/or the characteristic and landscape elements of the specific site and its context.
- Do not impact on important wetland sites within river/stream catchments which provide an important function in terms of regulating the flow of water in these catchments and often support habitats and species of high nature conservation value.

- Take cognisance of any adverse impacts on the populations of protected species including otters and bats.

5.2. **Natural Heritage Designations**

None

5.3. **EIA Screening**

6.0 Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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.

7.0 **The Appeal**

7.1. **Grounds of Appeal**

7.1.1 The appeal is submitted by Downey Planning on behalf of the First Party Randelswood Holdings Ltd. and also includes enclosures by CS Consulting in relation to traffic and servicing. Grounds of appeal are summarised as follows:

- A revised drawing is provided omitting on-site car parking to address traffic concerns.
- Existing level of traffic generated by the on-site builders yard and motor cycle business would be more significant than that arising from 4 dwellings.
- Proposal will introduce a residential scheme in place of a commercial development and reduce the conflict between the appropriate development of the site and intensification of the laneway and access road onto Dundrum Road.
- Site is well served by public transport.
- The proposal seeks to maximise the use of zoned land and serviced residential land while having due regard to the amenities of existing dwellings.

- Consolidation through higher density and compact urban form. Proposal in keeping with the character of the existing residential area.
- Scale and design does not overwhelm or dominate the form or appearance of adjoining properties and will not have a significant negative impact on the character or visual amenity of this established residential area or of the overall streetscape.
- Front elevation is designed with minimal fenestration to avoid overlooking.
- The proposal replicates the existing pattern of residential development along the western side of Millmount Grove where properties face the rear gardens of the properties fronting Dundrum Road.
- Drainage issues addressed in report by CS Consulting Engineers.
- Bin storage to be provided in the rear gardens of each individual property.
- Omission of car parking results in larger pocket park.
- Construction management plan can be provided prior to commencement of development.
- Report by CS Consulting acknowledges that the condition of Millmount Grove is substandard, proposal seeks to improve this by increasing total carriageway width along the eastern boundary of the site.
- Applicant has no control over the existing extents of Millmount Grove either along its north-south access or along the east-west spur that connects to Dundrum Road.
- TRICS data indicates that the proposal would not result in a significant increase in vehicular traffic flows.
- There is scope to significantly improve visibility at the junction for vehicles exiting onto Dundrum Road, through the reduction or removal of existing vegetation and walls.

7.2. Planning Authority Response

- 7.2.1 An Bord Pleanála is referred to the drainage report and to the previous planners report.

- In the decision to refuse it was noted that there are a number of drainage issues to be addressed in any future application for this site. These issues have not been addressed in submission to An Bord Pleanála.
- Possible conditions are suggested for the consideration of the Board including:
Prior to commencement of development evidence that no pipe clashes will occur particularly in relation to the surface water network and public overflow pipe that traverse the site and enters the Slang.
- Details of attenuation system, Individual soakpits within each property or a communal system to be managed by management company. Site investigations to assess groundwater issues.
- Allowable discharge from the site restricted to 2l/s/ha or QBar, whichever is greater. While it is acknowledged that a low restriction rate would require an impractical orifice size the applicant required to reduce discharge rate to an appropriate level while maintaining a workable orifice size.
- Locations of water butts to be agreed.
- Details of proposals for drainage of access road to the adjacent property. Applicant to confirm if any permeable paving has been proposed.

7.3. **Observations**

Observations received from Power Kelly and Company, 38 Millmount Grove were received outside the observation period and therefore have been regarded as invalid in accordance with Section 130(2) of the Act.

8.0 **Assessment**

8.1. I consider that the development can be assessed under the following broad headings:

- Principle of development
- Design, layout and impact on established amenity.

- Traffic
- Flooding Servicing and other matters
- Appropriate Assessment

8.2 Principle of Development

8.2.1 As regards the principle of development, the site is largely zoned Objective A “to protect and or improve residential amenity”. The western part of the site is zoned Objective F “*To preserve and provide for open space with ancillary residential amenities.*” The proposal to provide a modern standard of residential development on the site is appropriate in terms of the main zoning objective. The western part of the site is incorporated as a mix of private and public open space which would be considered acceptable within the context of this zoning. The proposed density equates to 44 units per hectare. I note that the site is well-located in close proximity to all amenities and to public transport and therefore the proposal is in accordance with the general policy desirability to increase densities within serviced urban areas in the interest of efficient land use resources and economies of scale. I consider that given the haphazard nature of existing structures on the site the principle of re-development of the site for residential use is generally welcome and therefore the focus for assessment is on the detailed nature of the development with particular reference to impact on the streetscape, impact on established residential amenity, traffic impact and ecology.

8.3 Design Layout and impact on established amenity.

8.3.1 As regards consideration of the residential amenity of the proposed dwelling units, I note that the floor areas of the proposed dwellings meet the minimum standards in terms of floor areas. As regards private open space each dwelling includes private rear garden ranging from 61sq.m to 75sq.m and a minimum garden depth of 6.1m. I note that the development plan standard requires a minimum rear garden depth of 11m which may be reduced to 7m for single storey dwellings. I consider that in the context of the site and the established pattern of development and location adjacent to the River Slang and distance to dwellings on the opposite bank a degree of

flexibility with regard to quantitative standards would be reasonable. I consider that the proposed design could provide for an adequate standard of residential amenity. As regards public open space the omission of the proposed on site parking, as outlined in the grounds of appeal, provides the opportunity for the creation of a more generous open space area on the northern part of the site for the benefit of the residents however I note that the detailed treatment of the area is not outlined.

8.3.2 In relation to the proposed design and layout I have a number of fundamental concerns. The proposal to construct a retaining boundary wall within the riparian corridor of the River Slang is problematic on both amenity and ecological grounds. I note Development Plan Policy LHB25: Rivers and Waterways which seeks to maintain and protect the natural character and ecological value of the river and stream corridors in the County and where possible to enhance existing channels and to encourage diversity of habitat. It is also policy (subject to the sensitivity of the riverside habitat) to provide public access to riparian corridors to promote improved passive recreational activities. I note that the plan requires in respect of development within riparian corridors, the dedication of a minimum of 10m each side of the water's edge for amenity, biodiversity and walkway purposes where practical, and that no development take place within 10m measured from the bank of any river stream or watercourse. The proposed layout is clearly at odds with this policy and whilst the brownfield nature of the site is acknowledged it is considered that the layout should appropriately address and mitigate river on the River Slang corridor.

8.3.3 As regards the proposed house design the character is contemporary whilst also drawing from the context. Ridge height of the proposed dwellings is in the region of 6.7m. I note the separation distance from the established single storey cottage properties to the east and would tend to concur with the views of the reporting City Council Planner that the character of the proposed first floor window to front elevation of the proposed dwellings within 10m of established dwellings would give rise to a undue degree of overlooking and overbearing impact. Whilst I acknowledge the somewhat constrained options and clearly some degree of overlooking is inevitable I consider that further mitigatory measures would be required to ensure that a more appropriate balance of competing residential amenity between the

opposing dwellings is achieved. On balance I consider that the design and layout require further evolution to address these matters.

8.4 Traffic and Access.

8.4.1 A key consideration within the decision of the Planning Authority to refuse permission relates to the issues of traffic hazard. The extremely restricted nature of the access road to the site, restricted sightlines and difficult vertical and horizontal alignment of the access road at the junction with the Dundrum Road result in an particularly hazardous current situation. There is poor provision for pedestrians or vulnerable road users. I consider that any intensification of use is highly undesirable. I note the first party argument asserting that the replacement of the current commercial use on the site with residential dwellings will potentially result in a reduction in traffic arising. However, as the current proposal merely replaces a motorcycle repair use and not the car sales yard and car repair garage therefore this argument is flawed. Within the grounds of appeal, it is proposed omit parking in its entirety to address this matter. Having visited the site I am of the view that the existing hazardous situation at the junction should be addressed as part of any proposal to develop in this area. I note that the previous proposal for development on the site (241906) included additional lands and buildings to the north and east of the appeal site and in my view a comprehensive approach would be desirable. I note however that the current applicants indicate that they have no control over any additional lands. As regards the feasibility of construction and mitigatory measures to address construction impacts I consider that in light of the specific constraints pertaining on the site such issues should be addressed and fully detailed as part of the planning application. In the absence of detailed road improvement measures I consider that the proposal would inevitably give rise to traffic hazard and a refusal is warranted.

8.5 Flooding Servicing and Other Matters.

8.5.1 On the issue of flood risk, I note the flood risk assessment by CS Consulting It notes that the site is located within Flood Zone B (Moderate probability of flooding) and C

(Low probability of flooding). A justification test is set out. It is noted that the attenuation system sized for a 1 in 100-year storm event with increase by 20% for climate change effects. The Minimum finished floor level will be 29.17m AOD based on low range flood level for land of 28.34m OD. I note the submission of the Municipal Services Department with regard to the detailed drainage provisions as outlined in response to the appeal and outlining the outstanding matters for be addressed. I further note that third party submissions raise the matter of the stone filled gabion (approximately 10 long indicated on site survey) which is located within the stream and currently restricts flow of the stream and which allegedly initially originated on the appeal site. This issue is not addressed by the first party. Neither does the flood risk assessment address the implications of proposed retaining wall construction.

8.5.2 As regards servicing I note third party concerns raised with regard to capacity issues of the existing foul sewer network however submission from Irish Water indicates no objection and technical reports of the Council raise no concerns in this regard.

8.5.3 As regards impact on ecology I note notwithstanding its brownfield nature and location within a heavily built up area the site has potential for use by protected species particularly bats and I consider that this matter should be addressed as part of any development proposal.

8.5.4 As regards the issues raised in third party submission to the Council by the operator of the motorcycle business on the site which questions the applicant's legal entitlement to carry out works I would refer to Section 34(13) of the Planning Act.

8.6 Appropriate Assessment

8.6.1 Having regard to the nature and scale of the proposed development and/or nature of the receiving environment and/or proximity to the nearest European site no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

9.1 Further to the above planning assessment of matters pertaining to this appeal, including consideration of the submissions of each party to the appeal and the site inspection, I conclude that it has not been demonstrated that the proposed development is appropriate for the site and that the proposed development would not endanger public safety by reason of traffic hazard. Accordingly, I recommend that permission be refused for the proposed development for the following reasons and considerations.

10.0 REASONS AND CONSIDERATIONS

1. Having regard to the overall conditions of the site access including substandard width and alignment, substandard visibility at the junction with the Dundrum Road and deficiency of provision for pedestrians and other vulnerable road users it is considered that in the absence of adequate provision for road upgrading in the area, the proposed development would result in an intensification of traffic movements which would endanger public safety by reason of traffic hazard. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. It is a policy of the Council LHB25 Rivers and Waterways, as set out within the Dun Laoghaire Rathdown County Development Plan 2016-2022, to maintain and protect the natural character and ecological value of river and stream corridors within the County and where possible to enhance existing channels and to encourage diversity of habitat. Having regard to the layout and design of the proposed development the Board is not satisfied that the proposed development responds appropriately to the unique characteristics of the site and that the proposal would not have a negative impact on the riparian corridor of the River Slang. The proposed development would therefore be contrary to the provisions of the Development Plan 2016-2022 as varied and would be contrary to the proper planning and sustainable development of the area.

Brid Maxwell
Planning Inspector

28th September 2019