



An
Bord
Pleanála

Inspector's Report ABP 304305-19

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| Development | Demolish house, erect 4 houses and 3 apartments |
| Location | 88 Trees Road Upper, Mount Merrion, Blackrock, County Dublin. |
| Planning Authority | Dun Laoghaire Rathdown County Council |
| Planning Authority Reg. Ref. | D18A/0823 |
| Applicant(s) | Red Rock Trees Road Limited |
| Type of Application | Permission |
| Planning Authority Decision | Grant Permission with conditions |
| Type of Appeal | Third Party |
| Appellant(s) | Desmond Tobin & Others |
| Observer(s) | None |
| Date of Site Inspection | 6 th August 2019 |
| Inspector | Hugh Mannion |

1.0 Site Location and Description

- 1.1. The application site has a stated area of 0.1715ha and is located at the corner of South Avenue and Trees Road Upper, Mount Merrion, Co. Dublin. The site accommodates a three bay two storey detached house with front and rear gardens. There is a slope to the south west across the site.
- 1.2. The area is residential in character and the pattern of development in the area is larger detached and semi-detached houses with front and rear gardens.

2.0 Proposed Development

- 2.1. The proposed development comprises;
 - Demolition of the existing house on site,
 - Erection of 4 two-storeys four-bedroom semidetached houses,
 - Erect a two-storey apartment block with dormer accommodation comprising 3 apartments.
 - Remove existing vehicular entrance and create a new entrance and 14 car parking spaces,
 - All services and surface water drainage,

At 88 Trees Road Upper, Mount Merrion, Blackrock, County Dublin.

3.0 Planning Authority Decision

3.1. Decision

Grant permission with 26 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 3.2.2. Subsequent to the submission of further information permission was granted in accordance with the planning reports on file.

The planning authority initially sought 20 points of further information. These related to;

1. Overlooking from the proposed rear balconies of the garden of the ground floor apartment. The absence of windows in the bedroom of the duplex apartments. The dominance by car parking of the open space to the front.
2. Submit landscaping plan for front area of site.
3. Submit details of waste management on site.
4. Provide 3m² internal storage in the apartments to meet the Design Standards for New Apartments (2018).
5. Submit a Road Safety Audit.
6. Submit a drawing designating car spaces per unit and visitor parking.
7. Provide details for the pedestrian access to the public road.
8. Provide details of the stop line road marking at the pedestrian access to the public road.
9. Provide details of the height of the boundary all along Trees Road.
10. Provide for cycle parking.
11. Provide for motorcycle parking.
12. Provide for electric charging points at the car spaces.
13. Provide details of access for refuse collection vehicles, emergency vehicles and deliveries.
14. Provide details of proposed public lighting.
15. Demonstrate that access is not blocked to the two end houses by parked cars in compliance with the building regulations.
16. Revise downwards the surface water discharge rate from the site.
17. Provide details of surface water storage on site.
18. Confirm that all hardstanding will have permeable paving.
19. Detail of the discharge pipe to be submitted.

20. Demonstrate that each unit has a separate connection to the surface water system.

3.3. Following the submission of further information, the planning authority sought 14 points of clarification of the further information as follows.

1. Clarify if the revised amenity area for the ground floor apartment is private space or shared space.
2. Submit revised landscaping plan for the roadside frontage of the site.
3. Submit details of bin storage arrangements.
4. Submit a Road Safety Audit, Access Audit, Cycle Audit and Walking Audit in accordance with DMURS.
5. Provide for tactile paving at the vehicular entrance.
6. Provide detail of a stop line road marking at the vehicular entrance.
7. Submit revisions to show the entrance piers with a maximum height of 1.1m.
8. Provide detail of on-site cycle parking.
9. Access for delivery vehicles should be clarified.
10. The surface water discharge rate is still unclear and should be clarified.
11. The details of surface water attenuation should be clarified.
12. Permeable paving should be provided at all hardstanding areas.
13. Details of the flow restricting device should be clarified.
14. The method of surface water drainage from the second house from the southeast boundary is has not been demonstrated.

3.3.1. Other Technical Reports

3.3.2. **Irish Water** required that each unit have separate foul and surface water connections. A second Irish Water report (27th March 2019) recommended a grant of permission.

3.3.3. **Drainage Planning** sought additional information in relation to surface water disposal as set out in the Further Information request.

- 3.3.4. A drainage division report (11th January 2019) subsequent to the submission of additional information sought clarification of further information.
- 3.3.5. A third drainage division report (26th March 2019) recommended a grant of permission subject to conditions.
- 3.3.6. **Transport Planning Section** sought further information as set out in the request for further information.
- 3.3.7. Transport Planning Section (16th January 2019) reported on the further information request and sought clarification on a number of points.
- 3.3.8. A third transport planning report (27th March 2019) recommended a grant of permission.
- 3.3.9. **Waste Section** sought further information in relation to waste management within the development.

4.0 **Planning History**

- 4.1. ABP 301881-18 (PA Reference D18A/0264) Permission was refused for two 2 storey houses at 88 Trees Road Upper, Mount Merrion, Blackrock, County Dublin because;

It is considered that the proposed houses by reasons of their scale and positioning adjacent to the adjoining boundary lines of the adjoining residential property, no. 88 Trees Road Upper, would have an overbearing impact, would be visually obtrusive, would overlook and would seriously injure the residential amenities of the adjoining property. As such the development would detract from the amenities of adjoining property, would be out of character with, and fail to respect the established pattern of development in the vicinity, and would set an undesirable precedent for similar type of development in the area. The proposed development would, seriously injure the residential amenity of the area and would, therefore be contrary to the proper planning and sustainable development of the area.

- 4.2. ABP 301879-18 (PA Reference D18A/0284) Permission was refused for a 2 storey houses at 88 Trees Road Upper, Mount Merrion, Blackrock, County Dublin because;

It is considered that the proposed house by reason of its scale and positioning adjacent to the adjoining boundary lines of the adjoining residential property, no. 88 Trees Road Upper, would have an overbearing impact, would be visually obtrusive, would overlook and would seriously injure the residential amenities of the adjoining property. As such the development would detract from the amenities of adjoining property, would be out of character with, and fail to respect the established pattern of development in the vicinity, and would set an undesirable precedent for similar type of development in the area. The proposed development would, seriously injure the residential amenity of the area and would, therefore be contrary to the proper planning and sustainable development of the area.

5.0 Policy and Context

5.1. National Policy

5.2. The **National Planning Framework (2018)** sets out a number of national objectives.

- Objective 3c is to deliver at least 50% of new houses in the city/suburbs of Dublin, Cork, Galway, Limerick and Waterford.
- Objective 11 is to favour development that can encourage more people to live or work in existing settlements.
- Objective 27 is to prioritise walking and cycling accessibility to existing and proposed development.
- Objective 33 is to prioritise the provision of new homes that can support sustainable development.
- Objective 35 is to increase residential density in settlements.

5.3. **The Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (DOEH&LG 2009)** seeks to encourage more sustainable forms of development in cities and towns through achieving higher residential

densities in areas served by transport infrastructure, public services and community facilities.

- 5.4. The Guidelines (paragraph 5.9) encourage the provision of additional houses in inner suburban areas of towns and cities which are close to public transport and where development will revitalise these areas and make better use of existing social and physical infrastructure.
- 5.5. The **Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments (2018)** contains several specific requirements with which compliance is mandatory. The minimum floor area for one-bedroom apartments is 45m², for two-bedroom apartments it is 73m² and for three-bedrooms it is 90m². Most apartments in new schemes of more than 10 must exceed the minimum floor areas by at least 10%. Requirements for individual rooms, for storage and for private amenity space are set out in the appendix to the guidelines, including a requirement for 3m² storage for one-bedroom apartments, 6m² for two-bedroom apartments and 9m² for three-bedroom apartments. In suburban locations a minimum of 50% of apartments should be dual aspect. Ground level apartments should have floor to ceiling heights of 2.7m.
- 5.6. **Smarter Travel – A Sustainable Transport Future 2009-2020** sets out key goals to reduce the environmental impact of transport and private car use. These include maximising the efficiency of the transport system and alleviation of bottle necks, minimising the local and global environmental impacts of greenhouse gas emissions, reducing travel demand and distances travelled by private car and accommodation of car drivers on other modes such as walking, cycling, public transport so that private cars will account for lowered kilometres of travel and other modes should grow to 55% by 2020.
- 5.7. **County Development Plan**
- 5.8. The application site is zoned objective A ‘to protect and-or improve residential amenity’ in the Dun Laoghaire-Rathdown County Development Plan, 2016-2022. The County Development plan at 8.2.3.4 (v) sets out criteria for considering development in side gardens. This include;

- Size, design, layout, relationship with existing dwelling and immediately adjacent properties.
- Impact on the amenities of neighbouring residents.
- Accommodation standards for occupiers.
- Development Plan standards for existing and proposed dwellings.
- Building lines followed where appropriate.
- Car parking for existing and proposed dwellings.
- Side/gable and rear access/maintenance space.
- Private open space for existing and proposed dwellings.
- Level of visual harmony, including external finishes and colours.
- Larger corner sites may allow more variation in design, but more compact detached proposals should more closely relate to adjacent dwellings. A modern design response may, however, be deemed more appropriate in certain areas in order to avoid a pastiche development.
- Side gable walls as side boundaries facing corners in estate roads are not considered acceptable. Appropriate boundary treatments should be provided both around the site and between the existing and proposed dwellings. Existing boundary treatments should be retained where possible.
- Use of first floor/apex windows on gables close to boundaries overlooking roads and open spaces for visual amenity and passive surveillance.

5.9. The County Development Plan in relation to infill development at 8.2.3.4 (vii) states that new infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

5.10. **Natural Heritage Designations**

Not relevant.

5.11. EIA Screening

5.12. Having regard to nature of the proposed development comprising four houses and three apartments in an appropriately zoned and built up area where foul water and potable water supply is available 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 style and size of the proposed development is out of character with the surrounding property.
- The proposed development is overbearing and visually obtrusive.
- The proposed density is contrary to the County Development Plan advice and national guidelines.
- There is insufficient space to accommodate 14 cars.
- The exit/entrance is too close to the roundabout and the proposed development will impact negatively on local traffic.

6.2. Applicant Response

- The proposed development complies with the Development Plan zoning objective for the site to protect and or improve residential amenity.
- The proposed development comprises 4 houses and three apartments for an overall density of 41.9 units/ha. This increased density complies with the County Development Plan and the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (DOEH&LG 2009).
- The proposed 4 houses comply with the internal space standards set out in the County Development Plan and the proposed 3 apartments comply with the standards set out in the New Apartment Guidelines (2018).

- The building lines, windows and elevational treatments have been designed to minimise impact on adjoining property.
- A single vehicular access point will not materially increase the number of access points onto Trees Road. The applicant submitted a road safety audit as part of the application and condition 16 of the grant of permission requires compliance with the recommendations of that audit. The proposed development will not endanger public safety by reason of traffic hazard.

6.3. **Planning Authority Response**

- The appeal does not raise matters which would justify a change to the decision to grant permission.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

7.1. The principal planning issues in this case are; development plan policy, density, character and pattern of development in the area, impacts on adjoining property, parking, traffic safety, apartment standards, public open space.

7.2. **Development Plan Policy**

7.3. The proposed development is located in an area zoned for residential development in the current County Development Plan and the nature of the proposed development accords with that zoning objective.

7.4. **Density**

7.5. The Sustainable Residential Development in Urban Areas Guidelines make the point that higher residential densities in the region of 50 units/ha should be encouraged in urban areas and in proximity to public transport infrastructure including bus corridors,

light rail and rail stations. The application site is within walking distance of the Stillorgan Road QBC, schools and UCD. While the Guidelines and County Development Plan encourage higher residential density, it is also appropriate to have regard to the character and pattern of development in the area. The proposed density is 42 units/ha (7 units on 0.1715ha) which is the lower end of the scale recommended in the Guidelines but having regard to the pattern of development in the area and the modest size of the site this density is acceptable.

7.6. Character and Pattern of Development in the Area.

- 7.7. The appeals make the point that the proposed development has not had proper regard to the character and pattern of development in the area and will be visually obtrusive within the area.
- 7.8. The area is characterised by residential development comprising larger two storey houses on individual plots with front and rear gardens. The proposed development comprises a residential use and reflects the residential character of the area.
- 7.9. The dominant pattern of development in the vicinity of the application site is two bay two storey houses with rendered façade and tiled roofs and a garage to the side. This pattern has been varied somewhat over the years as many garages have been converted to living accommodation with additional accommodation above so that longer facades have emerged and three bay houses have, in some instances, replaced two bay units.
- 7.10. The application site 'turns the corner' at a roundabout but the height of the proposed development replicates that of the adjoining older houses (see contiguous elevation drawing number AI203 Revision A submitted on the 8th March 2019) and reflects the building line and set back prevalent in the area. The photomontages submitted with the application illustrate the proposed relationship with the public realm and I consider that the mix of brick, render and roof tile are acceptable, reflect the advice of the County Development Plan in relation to developments in side gardens and will not detract from the pattern of development in the area or appear overbearing when viewed from the public realm.
- 7.11. The separation distance from the southern boundary with number 46 South Avenue is about 1m but that house is south of the application site and I consider that the proposed development will not impact on sunlight/daylight to that site. The western

boundary adjoins 90 Trees Road Upper, the new development is set back 1m from the boundary and there is some potential for overshadowing, but this is likely to occur onto the gable of the house at 90 Trees Road Upper which has no windows at first floor on the elevation facing this application site. I conclude that the proposed development will not seriously injure the residential amenity of adjoining houses through overlooking or overshadowing.

7.12. Traffic

7.13. The appeal makes the point that the proposed development is too close to the roundabout and may give rise to traffic hazard.

7.14. There is an access from the site to the Trees Road Upper which is being widened to accommodate the new development. The speed limit in the area is 50kms/hour. The planning authority's Transport Planning Section reported on this application and expressed no concerns, in principle, on grounds of traffic hazard.

7.15. Having regard to the speed limit at the site access, to the existing access serving the site from the public road and to the modest scale of the proposed development I conclude that the proposed development will not materially impact on traffic patterns in the area or give rise to traffic hazard.

7.16. Parking

7.17. The County Development Plan at table 8.2.3 requires the provision of 2 parking spaces per 3 bed house and 1.5 space per two bed unit along with visitor parking. The plan makes the point (paragraph 8.2.4.5) that car parking standards may be relaxed in a number of circumstances including where sites are close to public transport and town centres.

7.18. In this case 14 spaces are being provided thereby absorbing most of the open space along the road frontage of the site. I consider that this arrangement has had insufficient regard to the advice set out in Smarter Travel – A Sustainable Transport Future 2009-2020 to reduce travel demand and distances travelled and encourage other modes such as walking, cycling and use of public transport. Having regard to the location of the site close to public transport provision and other community services and facilities I recommend that a single space per residential unit is appropriate and I set out a draft condition below amending the application accordingly.

7.19. **Apartment Quality.**

7.20. The relevant standards are set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (Department of Housing, Planning and Local Government March 2018).

7.21. Following amendments at application stage the three proposed apartments meet the standards for private amenity space, size, storage, floor to ceiling height set out in the Apartment Standards Guidelines.

7.22. The bicycle store (see drawings AI102) provides adequate bicycle storage.

7.23. **Public Open Space.**

7.24. The planning authority imposed condition 26 requiring the payment of a levy of €2000 per residential unit (total €14,000) in lieu of public open space under section 48(2)(c) of the Act. The Development Contributions Guidelines for Planning Authorities (DoE,C&LG 2013) (page 9) states that a special development contribution may be imposed under section 48(2)(c) where specific exceptional costs, which are not covered by the general contribution scheme, are incurred by a local authority in the provision of public infrastructure or facilities which benefit very specific requirements for the proposed development, such as a new road junction or the relocation of piped services. The particular works should be specified in the condition. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution.

7.25. The planning authority has not specified any specific works which will benefit the proposed development and would thereby justify the imposition of condition 26. Therefore, this condition is not repeated in the draft order below.

7.26. **Appropriate Assessment.**

7.27. Having regard to modest scale of the proposed development and foreseeable emissions arising therefrom 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.

8.0 Recommendation

8.1. I recommend a grant of planning permission.

9.0 Reasons and Considerations

The site is zoned to protect and or improve residential amenity in the Dun Laoghaire Rathdown County Development Plan 2016 to 2022.

Having regard to;

- (a) The National Planning Framework which seeks to deliver at least 50% of new houses in the city/suburbs of Dublin, Cork, Galway, Limerick and Waterford.
- (b) The advice in relation to residential densities set out in The Sustainable Residential Development in Urban Areas (Department of Environment, Heritage and Local Government (2009),
- (c) the standards for new apartment developments set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (Department of Housing, Planning and Local Government March 2018).
- (d) the zoning objective for the site set out in the current County Development Plan,

it is considered that, subject to compliance with the conditions set out below, proposed development would not endanger public safety by reason of traffic hazard, seriously injure the visual amenity of the area or the residential amenity of property in the vicinity by reason of overshadowing or overlooking and would, otherwise, be in accordance with the current County Development Plan and the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 17th day of December 2018 and on the 8th day of March 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 in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Seven on-site car parking spaces only shall be provided in the proposed development. Prior to commencement of development a parking layout plan assigning a single space to each permitted unit shall be submitted to and agreed in writing with the planning authority.

Reason: In the interests of visual amenity and to encourage a move to more sustainable forms of transport.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs and access to the public road shall be in accordance with the detailed standards of the planning authority for such works.

Reason: In the interests of amenity and of traffic and pedestrian safety.

5. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

7. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house/apartment.

Reason: In the interests of amenity and public safety.

8. The areas of open space shown on the lodged plans shall be reserved for such use and shall be contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority.

Reason: In order to ensure the satisfactory development of the open space areas, and their continued use for this purpose.

9. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

10. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

11.
 - (a) 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 for each apartment unit 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.
 - (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

12. Proposals for an estate/street name, apartment 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.

Reason: In the interests of urban legibility.

13. The construction of the development shall be managed in accordance with a Construction and Environment 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:

- a) Location of the site and materials compounds including areas identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction and Environment Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

14. 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.

15. 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. 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 Contribution Scheme made under section 48 of the Act be applied to the permission.

Hugh Mannion
Senior Planning Inspector

12th August 2019