



An
Bord
Pleanála

Inspector's Report

ABP-305443-19

Development

Construction of a three-storey building to provide 2 one bed apartments at ground floor level; 2 two bed duplex apartments at first and second floor level including vehicular access and car parking to front gardens and all associated site works

Location

Site Adjacent to 23 Carrigmore View, Aylesbury, Tallaght, Dublin 24

Planning Authority

South Dublin County Council

Planning Authority Reg. Ref.

SD19A/0109

Applicant

JAS Ventures Ltd.

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party v Grant

Appellants

Mark & Jean Berney

Observers

(1) St. Martin's Residents Association
(2) Karen Malone and residents of Carrigmore View

Date of Site Inspection

20.11.2019

Inspector

Anthony Kelly

1.0 Site Location and Description

- 1.1. The subject site is located adjacent to No. 23 Carrigmore View, Aylesbury, Tallaght, Dublin 24, approx. 500 metres west of the Thomas Davis GAA Club grounds. It is a vacant site which does not appear to have previously been subject of building works.
- 1.2. The site is at the cul-de-sac of a line of two-storey terraced units containing three houses per block. Similar properties back on to the site on Carrigmore Close to the east. The subject site has angled views of a large area of public open space on the opposite side of the internal circulation road to the north west. Immediately adjacent to the south of the vacant site, though with no vehicular or pedestrian access to it from Carrigmore View, is a three-storey apartment building containing 12 no. units (Marlfield Green). The boundary between the cul-de-sac and the apartment building comprises a wall with railings above allowing views between both properties. Immediately west of the apartment building is Marlfield Mall, a three-storey mixed-use development with a number of separate angled roof structures.
- 1.3. The entire site subject of the planning application is covered in grass/vegetation with a slight increase in ground levels from front/west to rear/east. The site is fenced off towards the front. There is a public lighting column to the front. The low wall and railings to Marlfield Green forms part of the front area of the southern boundary but this boundary otherwise comprises a block wall. Timber fences form the boundaries with the properties to the rear and north/side except at the south east corner where there is a fenced-off 'gap'. Houses to Carrigmore Close have higher finished floor levels than houses on Carrigmore View.
- 1.4. The site has a stated area of 0.04 hectares.

2.0 Proposed Development

- 2.1. The planning application was lodged with the planning authority on 28.03.2019 with further plans received on 11.07.2019. The proposed development is for a detached three-storey building containing 2 no. one-bed ground floor apartments and 2 no. two-bedroom units, new vehicular access and car parking and associated site works.

2.2. The building design was altered following a further information request. The permitted building has a stated floor area of 260sqm with an indicated height of 8.565 metres.

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority decided to grant permission subject to 17 no. conditions of a relatively standard nature, including; extension of the public footpath, Irish Water connection, surface water drainage, landscaping, building numbering, creation of a management company, relocation of bin storage, construction practices, retention of existing ground levels, compliance with Part V, development contributions and a security bond.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports dated 20.05.2019 and 19.08.2019. Following the submission of further information, which the planning authority deemed significant, the Planning Officer considered that the proposed development would not seriously injure the amenities of the area or property in the vicinity, would provide an acceptable standard of residential amenity for future residents, would be acceptable in terms of traffic safety, would not be prejudicial to public health and would be in accordance with the proper planning and sustainable development of the area.

3.2.2. **Other Technical Reports**

Surface Water – The Planning Report states that the Surface Water Section had no objection subject to conditions.

Flood Risk – The Planning Report states that the Flood Risk Section had no objection subject to conditions.

Roads Department – The Planning Report states that the Roads Department had no objection subject to conditions.

Environmental Health Officer – The Planning Report states that the Environmental Health Officer had no objection subject to conditions.

3.3. **Prescribed Bodies**

Irish Water – The Planning Report states that Irish Water had no objection subject to conditions.

3.4. **Third Party Submissions**

2 no. third party submissions were made on the planning application from local residents (one of the submissions was countersigned by a number of additional local residents). The main issues raised can be synthesised as follows:

- Obstruction of view and light to adjacent first floor Marlfield Green apartment/difficulty selling the apartment because of this issue.
- Out of character with the existing development in Carrigmore in terms of external finish and design.
- Overdevelopment of the site.
- Building height.
- Inadequate car parking provision.
- One-bed apartments are not suitable in a housing crisis.

On foot of the new public notices as a result of the ‘Significant Further Information’ an additional submission was received from one of the original third parties, but this raised no new additional issues.

4.0 **Planning History**

The relevant planning history on site is:

P.A. Reg. Ref. SD17A/0339 – Permission granted on 09.01.2018 for 2 no. semi-detached 3-bedroom houses with an attic study and rear rooflights etc.

5.0 Policy Context

5.1. South Dublin County Council Development Plan 2016-2022

The site is in an area zoned Objective 'RES; To protect and/or improve residential amenity'. Residential development is acceptable in principle under this zoning objective.

Housing (H) Policy 8 Residential Densities – It is the policy of the Council to promote higher residential densities at appropriate locations and to ensure that the density of new residential development is appropriate to its location and surrounding context.

Housing (H) Policy 17 Residential Consolidation – It is the policy of the Council to support residential consolidation and sustainable intensification at appropriate locations, to support ongoing viability of social and physical infrastructure and services and meet the future housing needs of the County.

H17 Objective 5 – To ensure that new development in established areas does not impact negatively on the amenities or character of an area.

Section 11.2.7 (Building Height) – This states that varied building heights are supported across residential areas, urban centres and regeneration zones in South Dublin County, subject to appropriate safeguards to protect the amenity of the area.

Development proposals that include 'higher buildings' that are greater than the prevailing building height in the area should be supported by a strong urban design rationale (as part of a Design Statement) and provide an appropriate series of measures that promote the transition to a higher building.

Proposals for higher buildings of over three storeys in residential areas should be accompanied by a site analysis (including character appraisal) and statement that addresses the impact of the development (see also Section 11.2.1 – Design Statements).

The appropriate maximum or minimum height of any building will be determined by:

- The prevailing building height in the surrounding area.
- The proximity of existing housing – new residential development that adjoins existing one and/or two storey housing (backs or sides onto or faces) shall be

no more than two storeys in height, unless a distance of 35 metres or greater is achieved.

- The formation of a cohesive streetscape pattern – including height and scale of the proposed development in relation to width of the street, or area of open space.
- The proximity of any Protected Structures, Architectural Conservation Areas and/or other sensitive development.

Section 11.3.2 (Residential Consolidation) (i) (Infill Sites) – Development on infill sites sets out criteria that should be met including a site analysis addressing the scale, siting and layout taking account of the local context, and a degree of architectural integration with the surrounding built form.

5.2 Urban Development and Building Heights Guidelines for Planning Authorities (2018)

The Building Height Guidelines, Section 3.0 (Building Height and the Development Management Process) is relevant.

5.3 Natural Heritage Designations

The closest area of natural heritage designation is the Dodder Valley pNHA approx. 1.1km to the north east.

5.4 EIA Screening

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, which is a fully serviced suburban location, 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 stage, and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

1 no. third-party appeal was received from Mark & Jean Berney, 16 Carrigmore Close. The appeal has been countersigned by a number of other local residents. The main issues raised in the appeal can be summarised as follows:

- The building height is substantially greater than houses to the north and east which will have an overbearing impact.
- The three-storey building does not meet the requirements or standards of Section 11.2.7 of the South Dublin County Development Plan 2016-2022.
- Undesirable precedent.
- The development is being constructed to minimum standards contrary to Section 3.8 (Safeguarding Higher Standards) of the 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines' (2018)/inappropriate standard of residential accommodation for the second-floor bedrooms.
- Concern about impact on an existing poor drainage network.
- Overdevelopment of the site in terms of plot ratio (0.75).
- The development would likely cater for a 'renter' demographic within a family-based community and may not be suitable for an infill site.

6.2. Applicant Response

The main issues raised can be summarised as follows:

- There will be a height difference between the proposed development and 23 Carrigmore View of 575mm.
- Carrigmore View rises on a gradient, so some houses are higher than their neighbour e.g. No. 7 is at least 900mm higher than No. 5.
- The Marfield Green apartment building is over 4 metres higher than 23 Carrigmore View. Marfield Mall is also significantly higher.

- Photographs and an attached map show many existing developments in the immediate area which have significant height differences from their immediate neighbours, in excess of that between the proposed and existing houses.
- There will be no overbearing impact on houses and the height is consistent and sympathetic to the streetscape.
- With regard to Section 11.2.7 of the South Dublin County Council Development Plan 2016-2022 there are a number of three-storey houses within 35 metres of two-storey houses as shown on a map attached to the response.
- The three-storey house has been designed as two-storey in appearance.
- Second floor bedrooms fully comply with Part F of the Building Regulations.
- The suggested plot ratio (0.75) in the appeal documentation is incorrect and no calculations were provided. The development has a plot ratio of 0.65 and this is not considered excessive having regard to adjacent development.
- The housing mix proposed provides a variety of accommodation options.

6.3. Planning Authority Response

None received.

6.4. Observations

2 no. observations have been received from (1) St. Martin's Residents Association, c/o 45 Heatherview Close and (2) Karen Malone, 3 Marfield Green and residents of Carrigmore View c/o Yvonne Heffernan, 23 Carrigmore View. The issues raised are similar to those referenced in the appeal but also include:

- Shadowing on and loss of views from balconies on the adjacent apartment building on Marfield Green/the building line should be staggered.
- Inadequate separation distance between the development and adjacent properties.
- Inadequate private open space provision.
- Inadequate car parking provision and an inadequate circulation road width for manoeuvring.

- Concern over revised bin storage location as per Condition 11 of the planning authority decision.

6.5. Further Applicant Response

A further response was received from the applicant and the main additional issues raised can be summarised as follows:

- South Dublin County Council Policy 9 is to promote varied building heights to support compact urban form and visual diversity.
- The proposed development is arguably less bulky than the permission granted under P.A. Reg. Ref. SD17A/0339 due to the proposed hipped roof as opposed to gable ends.
- A 3D drawing of the proposed development in the context of existing development is submitted.
- There are fewer bathrooms proposed than permitted under P.A. Reg. Ref. SD17A/0339.
- Impact to the adjacent apartment building will be no different to that under P.A. Reg. Ref. SD17A/0339. Those balconies are south and west facing.
- There is ample space to park and manoeuvre. The car parking provision has been deemed adequate by the planning authority. Many three-bed houses along Carrigmore View have provision for only 1 no. car parking space.

7.0 Assessment

The main issues are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of the Proposed Development
- Building Height
- Residential Amenity
- Impact on Adjacent Residential Amenity
- Drainage

- Appropriate Assessment
- Other Matters

7.1 Principle of the Proposed Development

- 7.1.1 The site is in an area zoned 'Objective RES; To protect and/or improve residential amenity' under the South Dublin County Council Development Plan 2016-2022. Residential development is permitted in principle under this zoning objective and it is noted that there is an existing grant of permission on site for 2 no. houses under P.A. Reg. Ref. SD17A/0339. The Plan states, in Housing Policies 8 and 17, that higher residential densities at appropriate locations and appropriate to its location and context will be promoted and that residential consolidation and sustainable intensification at appropriate locations will be supported.
- 7.1.2 I consider that the provision of a duplex structure containing 4 no. units at this infill site adjacent to an apartment building and mixed-use development is acceptable in principle.

7.2 Building Height

- 7.2.1 The height of the proposed structure, in the context of the existing houses on Carrigmore View and Section 11.2.7 (Building Height) of the South Dublin County Council Development Plan 2016-2022, is one of the main issues raised in the appeal and observations received.
- 7.2.2 This issue was raised in the further information request of 20.05.2019. The applicant, in response, made alterations to the development including reducing the ground floor level of the building by 245mm. Notwithstanding, Condition 14 of the planning authority decision required existing ground levels to be maintained over concern about potential flood risk, undesirable precedent, impact on residential amenity and visual incongruity i.e. the suggested reduction was not to be carried out.
- 7.2.3 Houses in the vicinity to the north and north east are generally two-storey terraced or semi-detached in scale. There is a three-storey apartment building immediately adjacent to the south of the vacant site and a three-storey mixed-use development

immediately to the south west. The appeal documentation concentrates on the fact that the proposed three-storey structure, though designed to appear two-storey in scale, is higher than the existing houses. However, given the proximity to both the apartment development at Marfield Green and the mixed-use development at Marfield Mall, I do not consider that the proposed structure can only be viewed, in isolation, in the context of the houses along Carrigmore View and Carrigmore Close. Any view of the site would also include the adjacent three-storey developments.

7.2.4 The appeal documentation states that the development will be contrary to the provisions of Section 11.2.7 (Building Height) of the Plan. This states that varied building heights are supported across residential areas. The 35 metres requirement for above two-storey housing is only one of four criteria that will determine the appropriate maximum height. Another criterion is the prevailing building height in the surrounding area. Given the building environment in immediate proximity to the site I do not consider the proposed development to be greater than the prevailing building height in the area. I do not consider the proposed development to be inconsistent with the provisions of Section 11.2.7.

7.2.5 Notwithstanding, the 'Urban Development and Building Height Guidelines' (2018) supersedes the County Development Plan 2016-2022 in relation to building height. The development is consistent with the provisions of Section 3.0 (Building Height and the Development Management Process). The development responds to its built environment, is not monolithic, it positively contributes to the mix of building typologies in the neighbourhood and it minimises shadowing and loss of light being directly north of the most affected property.

7.2.6 I consider the proposed development acceptable in terms of height and consistent with the 'Urban Development and Building Height Guidelines' (2018).

7.3 Residential Amenity

7.3.1 Issues raised in the appeal documentation include inadequate bedroom areas and inadequate private open space and car parking provision for the proposed development.

- 7.3.2 The appeal documentation states that actual usable bedroom floor area is far less than the floor area cited on the floor plans. The applicant's response is that internal floor areas meet the current apartment standards ('Sustainable Urban Housing: Design Standards for New Apartments Guidelines' 2018) and states they are fully compliant with Part F of the Building Regulations. Section 7.8 (Conditions relating to other codes) of the 'Development Management Guidelines' (2007) notes that certain matters, though of concern in the exercise of development management, are subject of more specific controls under other legislation and, in this regard, Building Regulations require certification by the developer's design team. I consider the bedroom floor areas to be acceptable from a planning perspective.
- 7.3.3 Private open space provision for the one-bedroom apartments is approx. 13.25sqm, well in excess of the 5sqm required in the Apartment Guidelines. 7sqm balconies to the front/west are provided for the two-bedroom duplex units, which is the floor area required by the guidelines.
- 7.3.4 4 no. car parking spaces are provided. Table 11.24 (Maximum Parking Rates (Residential Development)) of the County Development Plan 2016-2022 gives a standard of 4.5 car parking spaces. This is a maximum standard and the development allows for one space per unit. The Roads Department of the planning authority had no issue with the car parking provision, and I consider the provision of one space per unit to be sufficient. I also do not consider that there is any concern in relation to manoeuvring or circulation for vehicles at this location.

7.4 Impact on Adjacent Residential Amenity

- 7.4.1 The impact on the residential amenity to the adjacent apartment block to the south has been referenced in terms of loss of view and shadowing and inadequate separation distances to both sides has been identified.
- 7.4.2 There is no entitlement to a view in the planning code. Therefore, this is not a material consideration in this instance. In terms of shadowing it should be noted that the proposed development is immediately north of the apartment building and the balconies to the front of the building will still enjoy sunlight from the south and west. I do not consider that shadowing is an issue.

7.4.3 The footprint of the proposed structure is consistent with the front and rear building lines of Carrigmore View to the north. Separation distances of a minimum 1.321 metres is achieved with the maximum distance to the boundary being 2.09 metres. These separation distances allow for circulation around both sides of the structure for bicycles, maintenance, bin storage etc. (the planning authority condition in relation to relocation of the bin storage is considered to be appropriate). The proposed footprint, separation distances to the side boundaries, floor area (cited as 260sqm as opposed to the permitted 262sqm) and proposed height (8.565 metres as opposed to the permitted 8.46 metres) are similar to that of the semi-detached pair of houses permitted under P.A. Reg. Ref. SD17A/0339.

7.4.4 Therefore, the proposed development is similar in scale to that permitted under P.A. Reg. Ref. SD17A/0339 and I do not consider that there will be an undue impact on the residential amenity of adjacent property.

7.5 Drainage

7.5.1 Issues with regard to the capacity and condition of the existing drainage network have been raised.

7.5.2 The site layout plan indicates that there are separate surface and foul water sewers in the area. Issues relating to foul discharge are matters addressed by Irish Water who is the competent authority for these matters. The planning authority's Planner's Report states that the Irish Water report for the proposed development had no objection subject to conditions.

7.5.3 Given Irish Water has no concern with the development it is considered acceptable.

7.6 Appropriate Assessment

7.6.1 Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location remote from any 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.

7.7 Other Matters

- In the original planning application, the only reference to ground levels was the proposed finished floor level of +110.900. As part of the further information response drawings were submitted identifying existing ground levels from 110.67 to 111.82 and giving a revised finished floor level of +110.465; a reduction of 435mm and not 245mm as stated in the further information response. The planning authority considered the reduction to be inappropriate and, in the grant of permission, included Condition 14 which states that the existing ground level shall be maintained at 110.7 OS datum as detailed in Drawing No. 19016.PL.003. However, Drawing No. 19016.PL.003 does not have any ground levels cited. In the interest of clarity, the finished floor level cited on Drawing No. 19016.PL.002 of the original application, +110.900, is considered to be appropriate, and can be specifically cited in a revised condition. The 'Existing Site Plan' drawing received as part of the further information request identifies the adjacent structure to the north as having a finished floor level of 110.90 and the adjacent apartment building to the south having a finished floor level of 110.96.
- The first planning authority Planner's Report makes no reference to Part V. The second Planner's Report notes that a request for further information on an application for a certificate of exemption for Part V had not been responded to. The planning authority included Condition 15 in relation to Part V in their grant of permission and it is considered appropriate to include such a condition as there is no evidence that this issue has been resolved.

8.0 Recommendation

I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the South Dublin County Council Development Plan 2016-2022, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of building height, would provide an acceptable standard of residential amenity for the future occupants and would not seriously injure the residential amenities of the area. The proposed development would, therefore, be in accordance with 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 11.07.2019, 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. The proposed structure shall have a finished floor level of +110.900 as shown on Drawing No. 19016.PL.002 received by the planning authority on 28.03.2019.

Reason: In the interest of clarity.

3. Prior to commencement of development the developer shall submit revised proposals for the relocation of the bin storage area from the northern boundary for the written approval of the planning authority.

Reason: In the interest of residential amenity.

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

Reason: In the interest of visual amenity.

5. Proposals for a development name and numbering scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of urban legibility.

6. (a) The public footpath shall be extended along the western edge of the site to the southern boundary to a taking-in-charge standard and at the developer's expense.
(b) Dishing of the footpath and any required relocation of the existing public lighting column shall be carried out at the developer's expense and to the satisfaction of the planning authority.

Reason: In the interests of pedestrian and traffic safety and the proper planning and sustainable development of the area.

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

Reason: In the interest of public health.

8. The applicant or developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

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

(b) 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 practise, noise management measures and off-site disposal of construction/demolition waste.

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

10. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, a properly constituted Owners' Management Company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owners' Management Company. Membership of this company shall be compulsory for all purchasers of the residential units in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to occupation of the first residential unit.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

11. Prior to commencement of development, the developer 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 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 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 of the area.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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 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.

Anthony Kelly
Planning Inspector
17.12.2019