



An
Bord
Pleanála

Inspector's Report

ABP-307470-20

Development	Demolition of existing 2 storey house and construction of 4 no. three storey four bedroom houses.
Location	Former Parochial House, Church of The Good Shepherd, Nutgrove Avenue, Dublin 14.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D20A/0150
Applicant(s)	Klairon (Nutgrove Ltd.)
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Klairon (Nutgrove) Ltd.
Observer(s)	None
Date of Site Inspection	28 th August 2020
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1.1. The appeal site is located on the northern side of Nutgrove Avenue, Co. Dublin and has a stated area of c. 970m².
- 1.1.2. The main building on the site is a two storey house dating to the 1950's. This was formerly used as a parochial house for the Church of the Good Shephard. Two small outbuildings are also located on the site. The Church of the Good Shephard and an associated single storey community building is located on a large site adjacent to the site. The Camberley Oaks housing estate is located to the north and north east of the site.

2.0 Proposed Development

- The proposed development comprises of the demolition of an existing two storey dwelling and garage and the construction of a terrace of 4 No. three storey four bedroom houses. It is proposed to relocate the existing vehicular entrance and provide for 2 No. pedestrian entrances, 4 No. car parking spaces together with all associated site works.

3.0 Planning Authority Decision

3.1. Decision

Permission refused for 2 No. reasons as follows:

1. Having regard to the location of the subject site in proximity to public transport services and Nutgrove District Centre, it is considered that the density of the proposed development, being less than 50 dwellings per hectare, would constitute an unsustainable use of this accessible and fully serviced site and, as such, would materially contravene Policy RES 3 of the Dun Laoghaire Rathdown County Development Plan 2016-2022 with respect to residential density. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the size of the proposed dwellings and average car ownership levels in the area, it is considered that the proposed development would result in the

under provision of car parking standards of the Dun Laoghaire Rathdown County Development Plan 2016-2022. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- The planner's report considered that the principle of development is acceptable however it considered that the density was too low. It was also considered that there was an under provision of car parking spaces. It was considered that proposed House No. 4 may be visually overbearing when viewed from the rear of No. 19 Camberley Oaks.

3.2.2. Other Technical Reports

Transport Planning: Raised issues regarding inadequate car parking and inadequate provision of long term cycle parking for the 2 middle units of the terrace without access to the back garden. Refusal recommended.

Drainage Planning: No objection subject to conditions.

Conservation Section: The building proposed for demolition is not a designated Protected Structure or located within an Architectural Conservation Area. A conservation report was submitted with the application and the Conservation Section concur with the findings that the building is of limited architectural merit. No objection.

3.3. **Prescribed Bodies**

3.3.1. **Irish Water:** No object subject to conditions.

3.4. **Third Party Observations**

3.4.1. Three third party observations were submitted to the Planning Authority. The main issues raised were as follows:

- Overlooking and loss of amenity of existing adjoining residential properties.
- Design and Height and overdevelopment of site.
- Under-provision of car parking.
- Inadequate private open space provision.
- Concerns regarding impacts on Traffic Safety.

4.0 Planning History

V/018/20

Part V Exemption Certificate granted 13/03/2020 with respect to the construction of 4 No. dwellings.

5.0 Policy Context

5.1.1. Project Ireland 2040 - National Planning Framework

The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to "prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location".

National Policy Objective 35 seeks "to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights".

National Planning Objective 13 also provides that "In urban areas, planning and related standards, including in particular height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected".

5.1.2. **Section 28 Ministerial Guidelines**

The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- 'Urban Development and Building Heights' Guidelines for Planning Authorities
- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
- 'Design Manual for Urban Roads and Streets' (DMURS)

5.1.3. **Development Plan**

The operative Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016 – 2022. The subject site is zoned A: "To protect and/or improve residential amenity."

Relevant policies and objectives include:

Section 8.2.3.4 (vii) Infill: "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."

Section 8.2.3.4 (xiv) Applications for replacement dwellings shall also have regard to Policies AR5 and AR8 (Sections 6.1.3.5 and 6.1.3.8). In this regard, the retention and reuse of an existing structure will be encouraged over replacing a dwelling.

Section 2.1.3.4 Existing Housing Stock Densification: "Encourage densification of the existing suburbs in order to help retain population levels – by 'infill housing. Infill housing in existing suburbs should respect or complement the established dwelling type in terms of materials used, roof type, etc. In older residential suburbs, infill will be encouraged while still protecting the character of these areas."

Policy RES 3: It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development.

Where a site is located within 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities of 50 units per hectare will be encouraged.

Policy RES 4

It is Council policy to improve and conserve housing stock of the County, to densify existing built-up areas, having regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.

Section 8.2.3.2 of the Plan set out quantitative standards for residential development.

Section 8.2.8.4 sets out standards for private open space.

5.2. Natural Heritage Designations

5.2.1. The site is not located in or close to any European sites.

5.3. EIA Screening

5.3.1. Having regard to the limited scale of the proposed development (4 No. houses on a brownfield site) and to the fact that the development would be connected to the public drainage infrastructure in the area, it is considered that there is no real likelihood of significant effects arising on the environment. The need for EIA can therefore be excluded at preliminary examination stage and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The lands in question are a small infill site within an established suburban two storey context. It will result in the densification of the site and the area as a whole by replacing one house with four houses. As such, it will comply with Policy RES 4 of the Development Plan.
- The original proposal for the site comprised of 5 No. houses and a density of 50 dwellings per hectare. Following discussions with Dun Laoghaire Rathdown County Council, this was reduced to 4 houses and 40 dwellings per hectare.
- On the basis that the difference between 40 dwellings per hectare and 50 dwellings per hectare is one house, 'we are struggling to comprehend how the Planning Authority have concluded that a material contravention of the County Development Plan arises in respect of purported shortfall of 1 dwelling.'
- In terms of the concerns relating to inadequate car parking, the site is highly accessible by public transport and NP013 of the National Planning Framework, together with A New Transport Policy for Ireland 2009-2020 and the Building Height Guidelines support reduced car parking in such locations.

6.2. Planning Authority Response

- 6.2.1. The response from the Planning Authority considers that the grounds of appeal do not raise any new matter which would justify a change of attitude to the proposed development.

6.3. Observations

- 6.3.1. None.

7.0 Assessment

7.1. The main issues that arise for consideration in relation to this appeal can be summarised as follows:

- Density
- Car parking Provision
- Appropriate Assessment

7.2. Density

7.2.1. I consider that the main issue in this case relates to density. The first reason for refusal is as follows:

‘Having regard to the location of the subject site in proximity to public transport services and Nutgrove District Centre, it is considered that the density of the proposed development, being less than 50 dwellings per hectare, would constitute an unsustainable use of this accessible and fully serviced site and, as such, would materially contravene Policy RES3 of the Dun Laoghaire Rathdown County Development Plan 2016-2022 with respect to residential density. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

7.2.2. The case made by the first party appeal response is that this is an infill site, replacing one dwelling with 4 which complies with Policy RES 4 of the Development Plan, and that the wording of Policy RES 3 ‘encourages’ densities of higher than 50 rather than requires such densities. It is also stated that the density proposed is 40 dwellings per hectare and ‘on the basis that the difference between 40 dwellings per hectare and 50 dwellings per hectare is one house, we are struggling to comprehend how the Planning Authority have concluded that a material contravention of the County Development Plan arises in respect of purported shortfall of 1 dwelling.’ Furthermore, details of pre-planning consultation with the Planning Authority are included in the appeal response. The pre-planning consultation provided for a total of 5 No.

dwellings at a density of 50 units per hectare. Section 3.3.1 of the appeal response details the issues raised by the Planning Authority for this proposal. Issues were raised in relation to inadequate open space, inadequate separation distances and inadequate car parking. In response to the issues raised at pre-planning stage, the developer omitted one dwelling.

- 7.2.3. This is a serviced zoned site in a designated development area. A total of 4 houses are sought on a site of c. 970m² which equates to a density of c. 40 units per hectare. The site is located on an existing bus priority route as identified on Map T2 of the County Development Plan. There are bus stops within 50 metres of the site. Nutgrove District Centre is located within 600 metres of the site. Dundrum Luas Station is located c. 1.13km from the site.
- 7.2.4. The site fronts onto Nutgrove Avenue and the Church of the Good Shephard is located to the west. The surrounding area is generally suburban in character comprising traditional two storey dwellings. The Chamberly Oaks housing estate, which consists mainly of two storey terraces is located to the north of the site.
- 7.2.5. I am of the view that the site could be described as a brownfield infill site. The proposed development provides for a significant densification of existing development with an increase from 1 dwelling to 4 dwellings and as such complies with Policy RES4 of the Development Plan. The site has a number of constraints, notably its limited size, its irregular shape, and the proximity to two storey dwellings. I note the issues raised in pre-planning discussions with the planning authority and consider that it would be difficult to achieve a higher density on the site without negatively impacting on the residential amenities of the two storey terraces in Chamberly Oaks close to the boundary. I am satisfied that the proposed design has been carefully thought out and does not negatively impact on the residential amenities of existing properties.
- 7.2.6. Policy RES 3 encourages higher residential densities provided that the proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of the area. Higher densities of 50 units per hectare will be encouraged in certain locations including where the site is within 1 kilometre pedestrian catchment of a Quality Bus Corridor and a District Centre.

7.2.7. Having regard to the constraints outlined above in terms of limited site size, irregular shape and proximity of two storey residences to the site boundary, I do not consider that this site would be an appropriate location for a higher density than what is proposed under this application. I note the point made in the appeal response that an increase in density to 50 units per hectare would require only one additional unit. The appeal response points out that this had previously been examined at pre-planning stage and the conclusion of the Planning Authority was that *'the number of houses on site appears to be excessive given the issues it raises.'* As such, having regard to the size and characteristics of the site and the design of the proposed development, I am satisfied that the density proposed is appropriate for the site.

7.3. Car Parking Provision

7.3.1. I note that the second reason for refusal by the planning authority related to inadequate car parking. A total of 4 parking spaces are proposed for 4 houses. Table 8.2.3 of the Development Plan requires 8 No. spaces for the 4 No. 4 bedroom houses proposed. Due to the confined nature of the site and the proposal to retain the attractive mature tree to the front of the site, I consider that it would be difficult to achieve more car parking on the site. Having regard to the accessible nature of the site and the proximity to a quality bus corridor, and the policies set out in 'Smarter Travel- A sustainable Transport Future, A New Transport Policy for Ireland 2009-2020, NP013 of the National Planning Framework, and the 'Urban Development and Building Heights' Guidelines which all consider that car parking provision can be reduced in certain circumstances, with a particular emphasis on sites such as this in central locations well served by public transport, I am satisfied that the parking provision is adequate.

7.1. Appropriate Assessment

7.1.1. Having regard to the nature and scale of the proposed development, an infill site in a serviced urban area, and its distance 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.

8.0 Recommendation

- 8.1. I have read the submissions on file, visited the site, and had due regard to the provisions of the Development Plan and all other matters arising. In light of this and the assessment above, I recommend that permission be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would integrate in a satisfactory manner with the existing built development in the area, would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. Details including samples of the materials, colours and textures of all the external finishes to the proposed units shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

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. 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. Any existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

5. Public lighting shall comply with the detailed standards of the planning authority, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

6. Access arrangements shall comply with the detailed standards of the planning authority for such works.

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

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

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

8. All of the parking areas serving the residential units shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

9. Proposals for an estate development name and house 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 numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interests of urban legibility, and to ensure the use of locally appropriate place names for new residential areas.

10. 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 of roads, footpaths, watermains, drains, 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 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 of the development.

11. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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.

Emer Doyle

Planning Inspector

30th October 2020