



An
Bord
Pleanála

Inspector's Report ABP-307682-20

Development

The proposed development on this site of 0.19 hectares consists of a four storey apartment building comprising of 19 apartments.

Location

Ely Square, Nutgrove Avenue,
Rathfarnham, D14.

Planning Authority

Dun Laoghaire-Rathdown County
Council

Planning Authority Reg. Ref.

D20A/0204

Applicant(s)

M & N O'Grady Developments

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Observers

Graham Long
Irene Gavin
Stonepark & Longwood Residents
Association

B & G Kamat
Roberto & Ciara Fonseca
John Brosnan
Demond & Claire Sullivan
Colette Beagan & Dave Sheehan
Kerrie O'Connor & Alan Conlon
Brian McSweeney
Laura Dillon
David McMunn
Marianne Power & Tony Coakley
Teri & Stephen Hunt
Ian & Caitriona McBryan
Paul & Lucy Moloney
Barry Walsh & Siobhan McGowan
Sean McCreery & Irene O'Keefe
Fachtna O'Donovan
Joseph McGeever & Anne McGeever
Frank Cooke & Augusta Collins
Brendan Barry
Dolore & Billy Brennan
Kate Fitzpatrick & Pdraig Walsh
Rhiannon Watson & Cormac Ó
Braonáin
Gary Sheridan & Mary McBride
Caroline Hyland & John Egan
Ross Shorten & Joan Carty
Minister Colm Brophy TD
John Lahart TD
Councillor Yvonne Collins

Councillor David McManus

Date of Site Inspection

14th October 2020

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The site comprises of a stated area of 0.19 hectares located to the south west of the 'Ely Square' residential development, to the west of Rathfarnham Educate Together National School, north of houses in 'Stonepark Abbey' and to the east of an area of public open space associated with the 'Stonepark Abbey' residential development, all to the south of Nutgrove Avenue, Rathfarnham, Co. Dublin. The site is currently undeveloped and forms part of the construction compound/ storage area for the contractors completing the Ely Square development. The site is generally flat. Ely Square consists of a mix of two and three storey semi-detached and terraced houses.
- 1.2. The adjacent area is generally characterized by residential development. The open space area to the west of the site is separated from the site by a high block wall. There are a number of mature trees located to the west of this wall. The lands to the west and south are located within the South Dublin County Council administrative area – the wall forms the boundary between the two local authority areas.
- 1.3. Nutgrove Shopping Centre is located approximately 500 m to the east and Rathfarnham village is located approximately 900 m to the north west of the appeal site.
- 1.4. Nutgrove Avenue is served by Go-Ahead bus route 17 Blackrock to Dolphins Barn and 75 Dun Laoghaire to Tallaght, these operate every 20 to 30 mins off-peak. Dublin Bus route 61 also serves Nutgrove Avenue on the Whitechurch to Eden Quay/ City Centre routing, operating infrequently every hour/ hour and a quarter. Dublin Bus route 16 is available further to the west along Nutgrove Avenue approximately 600 m from the site. This bus route operates every 10 to 12 minutes off peak serving the city centre and continues on to Dublin Airport.

2.0 Proposed Development

The proposed development of this site, with a stated area of 0.19 hectares, consists of:

- The construction of a four storey apartment building comprising of 19 apartments as follows:

- 4 x one-bedroom units
- 11 x two-bedroom units
- 4 x three-bedroom units
- 19 number car parking spaces, 26 number bicycle parking spaces and two motorcycle spaces.
- A plant room including a waste management area is contained within a single storey part of the block.
- All associated site works, drainage, water supply etc. Access is from the existing access from Nutgrove Avenue.
- Modification to part of the open space permitted under PA Ref. D13A/0370 – ABP Ref. PL06D.242557.

The proposed density is 100 units per hectare. The development is located on an area of land for which four houses were permitted.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to refuse permission for a single reason as follows: 'The open space proposed to serve the development is piecemeal and poorly located and would, in itself and when viewed within the overall development parcel, result in a scheme deficient in quality open space representing overdevelopment of a limited site; materially contravening Section 8.2.8.2 of the Dun Laoghaire Rathdown County Development Plan 2016-2022. In addition, the proposed development would result in a cramped form of development, reliant on adjoining lands, not in the applicant's control, to provide residential amenity for future residents. The proposed development therefore contrary to the area's zoning objective 'A' which is, 'to protect and/or improve residential amenity' and 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 Planning Report reflects the decision to refuse permission. The replacement of four permitted houses with this apartment block would represent overdevelopment of this site. The permitted development of 47 houses provided for 9% of the site to be communal open space. The proposed development would require more open space to serve the needs of future residents. In addition to quantity, the quality of open space is poor through its layout and quantity and the development is cramped on a restricted site.

3.2.2. **Other Technical Reports**

Transportation Planning: Further information was requested in relation to the provision of a detailed Quality Audit (to include a Road Safety Audit, Cycle Audit and a Walking Audit) which demonstrates compliance with DMURS, revised pedestrian access, revised bicycle parking details, revised car parking layout/ quantity, to demonstrate full details of car parking capable of electric vehicle charging and details of proposed management of areas not to be taken in charge.

Drainage Planning – Municipal Services Department: Further information requested in relation to the proposed 'brown biodiverse roof', details to demonstrate compliance with the Council's Green Roof Guidance Document and details of a proposal for a flow control device are requested, these were previously a requirement of the permitted development under D13A/0370 though not installed to date.

Housing Department: No objection subject to recommended condition.

3.2.3. **Prescribed Bodies Report**

None.

3.2.4. **Objections/ Observations**

A significant number of letters of objection were received to the original application. These included submissions from the Board of Management of Rathfarnham Educate Together National School, Longwood Park & Stonepark Abbey Resident's Association, C. Brophy TD, Councillor D. McManus, Councillor C. Bailey and individual members of the public.

Issues raised include:

- History of the site and previous refused permissions are noted/ referred to.
- Impact on existing residential amenity through overlooking leading to a loss of privacy and the development would be overbearing on houses in Stonepark Abbey.
- Concern about how amenity can be provided for future occupants of these apartments. Insufficient public/ communal open space is provided for.
- The provision of a four-storey apartment block is out of character with the existing form of development in this area.
- The density at 100 units per hectare is excessively high.
- There are no buildings adjacent to this site that are over two-storeys in height.
- Request that the Planning Authority Dun Laoghaire-Rathdown County Council consult with the adjoining Planning Authority – South Dublin County Council.
- Concern that the applicant is trying to access the site through Stonepark Abbey and may in time provide a permanent connection through to here.
- Potential loss of daylight through overshadowing from a four-storey building.
- The location of the waste storage facility is an inappropriate location and may impact on the amenity of the adjoining open space. Concern that this facility may encourage an increase in rodents which is already a significant problem.
- The proposed development may negatively impact on existing mature trees in Stonepark Abbey – no arborology report has been submitted with the application.
- Concern about the impact on the boundary wall between Stonepark Abbey and the subject/ appeal site. The revisions to this wall are not acceptable for a number of reasons including loss of privacy, may give rise to anti-social behaviour, reduced security and loss of amenity.
- This wall is of historic value as it forms part of the original Abbey boundary wall.
- Opening up of the boundary may result in Stonepark Abbey becoming an overflow car park for Ely Square.
- Legal issues including who owns the wall, legal agreement to ensure that the wall remains sealed.
- Potential impact in traffic along Nutgrove Avenue.

- Access to Ely Square is not regulated by traffic lights or roundabout.
- Negative impact on the adjoining Educate Together National School in terms of direct impact through overbearing and overlooking and longer term the development will prevent the future extension of this school.
- Negative impact on property values.
- The proposed development is not the optimum location for apartments on this overall Ely Square site, however the recent commencement of the construction of houses towards the centre of the site prevents the more appropriate construction of apartments here.
- Potential increase in noise will negatively impact on residential amenity.
- The public open space in Stonepark Abbey is important as it makes up for the reduced private amenity space afforded to some of the houses here. The reduction in quality of this open space especially if overlooked would impact on existing residential amenity.
- Opposition to the provision of a cycle – pedestrian link between Stonepark Abbey and Ely Square.
- Insufficient car and bicycle parking is provided for future residents of this development.
- Inconsistencies in submitted details with reference to Daylight Study that does not include Units 35 to 43 of the Ely Square development in this assessment.
- Apartments were never intended to be part of the Ely Square development, this was to be a housing only development.
- Potential impact on biodiversity with reference to native ducks, bats, birds and foxes.
- Nuisance through construction activity will continue for years if this development is permitted.
- Insufficient supporting documentation has been provided with particular reference to the lack of photomontages and no bat survey has been undertaken for this site.

4.0 Planning History

P.A. Ref. D16A/0480 refers to an April 2016 decision to refuse permission for the modification of internal site boundary treatments and existing overall site boundary treatment on Plots 1 to 47 as approved under P.A. Ref. D13A/0370/ ABP Ref. PL06D.242557.

A single reason for refusal was issued and stated in summary:

1. The development would contravene a condition attached to ABP Ref. PL06D.242557 requiring the provision of a block wall to all rear boundaries. The quality of the development would be lowered in standard and would detract from the visual and residential amenity of future residents and would contravene the residential zoning that applies to this site.

P.A. Ref. D13A/0370/ ABP Ref. PL06D.242557 refers to a February 2014 decision to grant permission for forty seven houses with associated roads, drainage, public lighting, landscaping and site works on lands to the south of Nutgrove Avenue, the subject lands form part of this site and four houses were to be constructed here. I note condition no. 8 c) and d) which states:

‘The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (c) Measures, if any, to provide for improved inter-visibility between the proposed open space along the western boundary of the site and the adjoining open space along the eastern boundary of Stone Park Abbey housing estate, and
- (d) A timescale for implementation’.

I also note condition no. 10:

‘The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation.

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

P.A. Ref. D12A/0292 refers to a September 2012 decision to grant permission for modifications to 47 units, previously approved under Reg. Ref. D11A/0258

P.A. Ref. D11A/0258 refers to an August 2011 decision to grant permission for modifications to the 47 units previously permitted under D09A/0168 and which resulted in a reduction of two no. units from that previously approved

P.A. Ref. D09A/0168 refers to a February 2010 decision to grant permission for the development of 49 dwellings and the demolition of No. 54 Nutgrove Avenue to facilitate vehicular/pedestrian access.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the subject site is zoned A ‘To protect and/or improve residential amenity’. Residential development is listed within the ‘Permitted in Principle’ category of this zoning objective.
- 5.1.2. Chapter 2 – ‘Sustainable Communities Strategy’ of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, includes section 2.1 ‘Residential Development’. The Introduction (2.1.1) refers specifically to how future population growth will be accommodated, with one model – ‘Through the continuing promotion of additional infill accommodation in existing town and district centres at public transport nodes, brownfield sites and established residential areas’.
- 5.1.3. Under 2.1.3.3 ‘Policy RES3: Residential Density’ it is policy to: ‘.. 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'. I also note the following:

'As a general rule the minimum default density for new residential developments in the County (excluding lands on zoning Objectives GB, G' and B') shall be 35 units per hectare. This density may not be appropriate in all instances, but will serve as a general guidance rule, particularly in relation to 'greenfield' sites or larger 'A' zoned areas. Consideration in relation to densities and layout may be given where proposals involve existing older structures that have inherent vernacular and/or streetscape value and where retention would be in the interests of visual and residential amenity and sustaining the overall character of the area'.

Under 2.1.3.4 'Policy RES4: Existing Housing Stock and Densification' it is policy to:

- 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.

Under 2.1.3.7 'Policy RES7: Overall Housing Mix' 'It is Council policy to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Interim Housing Strategy'.

5.1.4. Section 5.1 refers to 'Environmental Infrastructure and Management' and Section 5.2 refers to 'Climate Change, Energy Efficiency and Flooding'.

5.1.5. Chapter 8 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to 'Principles of Development' and the following are relevant to the subject development:

- 8.2 'Development Management' – with particular reference to section 8.2.3 'Residential Development' and 8.2.3.4 'Additional Accommodation in Existing Built up Areas'.
- Section 8.2.4.12 refers to Electrically Operated Vehicles – One parking space per 10 spaces to provide for electric charging.

- Section 8.2.8.2 refers to Public/ Communal Open Space – Quantity and Section (i) refers specifically to Residential/ Housing Developments. The following is noted/ is relevant:

‘Open Space: For all developments with a residential component - 5+ units - the requirement of 15 sq.m- 20 sq.m. of Open Space per person shall apply based on the number of residential/housing units. For calculation purposes, open space requirements shall be based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. A lower quantity of open space (below 20 sq.m per person) will only be considered acceptable in instances where exceptionally high-quality open space is provided on site and such schemes may be subject to financial contributions as set out under Section 8.2.8.2

The Planning Authority shall require an absolute default minimum of 10% of the overall site area for all residential developments to be reserved for use as Public Open and/or Communal Space irrespective of the occupancy parameters set out in the previous paragraph’.

- Section 8.2.8.3 refers to ‘Public/ Communal Open Space-Quality’ and the following is particularly relevant to this development:

‘Where any open space is to be provided on foot of a planning permission, the space in question should be well overlooked and designed and located to sympathetically complement the layout of the development and should be visible from, and accessible to, the maximum number of dwellings/ units within the proposed scheme. Inaccessible, hidden or otherwise backland open space, and narrow linear strips of open space will not be acceptable. Fragmented open spaces within a development layout, which result specifically from the necessity to protect existing site features (for example a stand of mature trees) may not be included in the calculation open space requirements, as they are necessary to ensure the protection of existing amenities.

Public and/or communal open spaces should be overlooked and designed to ensure that potential for anti-social behaviour is minimised through passive surveillance. ‘Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities’ (2009) provides detailed guidance on the provision of open space for new residential developments while the ‘Retail Design Manual’ (2012) provides guiding principles on how landscaping and open spaces can assist improved public realm and promote attractive retailing centres’.

- Section 8.2.8.4 refers to ‘Private Open Space – Quantity’ and section (iv) Private Open Space for Apartment Developments is relevant.

5.2. Development Plan – Adjoining Lands

The adjoining lands to the west and south are within the South Dublin County Council administrative area and the South Dublin County Council Development Plan 2016 – 2022 is the current plan for that area. The immediately adjoining lands are zoned ‘RES’ Residential development with the objective ‘To protect and/ or improve residential amenity’.

5.3. National Guidance

- The National Planning Framework includes a specific Chapter, No. 6 – ‘*People Homes and Communities*’ which is relevant to this development. This chapter includes 12 objectives (National Policy Objectives 26 to 37) and the following are key to this development:
 - National Policy Objective 27 seeks to ‘Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages’.
 - 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 densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights'.
- Quality Housing for Sustainable Communities (DoEHLG, 2007).
- Design Manual for Urban Roads and Streets (DMURS).
- Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (DoEHLG, 2009) and its companion, the Urban Design Manual – A Best Practice Guide (DoEHLG, 2009).
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DoHPLG, 2018).

These guidelines provide for a range of information for apartment developments including detailing minimum room and floor areas.

- Urban Development and Building Heights Guidelines for Planning Authorities (DoHPLG, 2018).
- Permeability Best Practice Guide (NTA).

5.4. Natural Heritage Designations

None.

5.5. EIA Screening

Having regard to the nature of the proposed development comprising the provision of an apartment development in an established urban area and where infrastructural services are 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 applicant has engaged the services of Brock McClure Planning & Development to prepare an appeal against the decision of Dun Laoghaire-Rathdown County Council to refuse permission for this apartment block/ residential development.

Mains grounds of appeal include:

- The planning history of the site and adjoining lands is provided.
- A summary of the application and its context is provided.
- The proposed development complies with National Policy with particular reference to the 'National Planning Framework', 'Sustainable Urban Housing: Design Standards for New Apartments' and 'Urban Development and Building Heights'.
- Open space is in accordance with the apartment guidelines and meets the minimum of 10% site area in accordance with the Dun Laoghaire-Rathdown County Development Plan.
- The site is in close proximity to a number of public open space areas – demonstrated in Figure 7 of the appeal statement.
- The development complies with all required residential standards and it is disagreed with that the proposal would result in a cramped form of development.
- The car parking provision at 19 spaces is adequate to serve this development, especially having regard to existing bus services in the area.
- Two parking spaces will be provided with electric charging points and all spaces will make provision for future provision of electric charging points.
- A revised layout is provided in Figure 11 – provides for revised open space layout of 274 sq m.

6.2. Observations

A significant number of observations have been received including submissions from Minister Colm Brophy TD, John Lahart, TD, Councillor Y. Collins and Councillor D McManus, in addition to individual members of the public.

The following comments are made in summary:

- The proposed development will negatively impact on the residential amenity of Stonepark Abbey through loss of light, overshadowing, loss of privacy and negative impact on the use of the green/ public open space.
- The proposed boundary alterations with particular reference to the provision of a railing here will impact on the security of Stonepark Abbey through allowing for greater access to this residential area and would also impact on the safety of children using the public open space, which has been taken in charge by South Dublin County Council. A high wall provides for greater security than a wall with fence over.
- Notes that previous applications were refused on this site.
- Concern that a future connection may be provided between Stonepark Abbey and Ely Square.
- Concern about impact on trees.
- Reference to previous applications and legal agreements.
- Potential impact on traffic in the area and on car/ bicycle parking.
- Insufficient open space is provided to serve future residents of this development. The open space provided is piecemeal and not useable.
- The proposed density at 100 units per hectare is excessive and the development is out of character with the area with particular reference to the height at four storeys. It was only expected that houses would be built on the Ely Square development lands.
- Concern about negative impacts on adjoining school site.
- The collection of refuse will result in the road becoming blocked especially if bins are placed on the road for collection.

- The existing development of Ely Square has exceeded the time permitted to complete the development and the proposed development if permitted would extend the nuisance into the future.
- The submitted application is deficient in not containing a number of listed supporting documents.

An observation was prepared by Marston Planning Consultancy on behalf of the Stonepark and Longwood Residents Association. Issues raised are similar to those in the other observations. Additional comments referred to this development materially contravening Section 8.2.8.2 of the County Development Plan. National policy is noted but the development should be refused due to the poor quality of the proposal. The submitted alternative proposal does not address the reason for refusal issued by the Planning Authority.

An observation was submitted by Rathfarnham Educate Together National School and raised concerns about impact on the school through overlooking and also impact on the future development of the school. Concern was expressed about impact on the school during the construction phase. Other issues such as traffic, parking etc. are similar to those raised in other submissions.

6.3. Planning Authority Response

The grounds of appeal do not raise any new matters, so no additional comment is made.

7.0 Assessment

7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Principle of Development
- Open Space
- Design and Impact on the Character of the Area

- Impact on Residential Amenity of Future Occupants
- Impact on Existing Residential Amenity
- Traffic and Parking
- Other issues
- Appropriate Assessment Screening

7.2. Principle of Development

- 7.2.1. The subject site is zoned 'A' for residential development, and it is therefore considered that the provision of a residential development on this site is acceptable in principle. National policy with particular reference to NPF33 & NPF35 and local policy as set out in the Dun Laoghaire Rathdown County Development Plan 2016 – 2022, seek to increase densities where this is appropriate. The proposed development is for 19 apartment units on a site of 0.19 hectares, therefore giving a density of 100 units per hectare. This density is considered to be acceptable in an area where frequent/ high capacity public transport is available within walking distance.
- 7.2.2. The planning history of the site is noted, in particular the fact that four houses were already permitted on this site. Previous applications for apartments were refused however four two-storey houses were permitted here.
- 7.2.3. The Planning Authority reason for refusal refers to two main issues, firstly the poor quality of open space and secondly the development is cramped on this site and has to rely on adjoining lands to ensure that adequate residential amenity is provided for. Other issues were referred to in the Planning Authority Case Officer's report and they will be considered here.

7.3. Open Space

- 7.3.1. The proposed development is for a single, four-storey apartment block, comprising of 19 apartments in the form of one, two- and three-bedroom units. The location of this block is on an area of land for which four houses were permitted. The proposed development will maximise the use of these lands and will provide for a density of 100 units per hectare.

- 7.3.2. Public open space associated with these permitted houses provided for a small area of land to the north of the northern most permitted house, the area of land is circa 200 sq m and most of it can only be considered to be incidental open space with limited amenity value by virtue of the permitted road layout. The subject development proposes two areas of open space – 60 sq m to the north attached to an existing area of open space and an area of 187 sq m to the south of the site adjacent to the southern boundary. I refer to Section 8.2.8.2 of the Dun Laoghaire-Rathdown County Development Plan and the section which states, ‘The Planning Authority shall require an absolute default minimum of 10% of the overall site area for all residential developments to be reserved for use as Public Open and/or Communal Space..’. The site area is 0.19 hectares, and the southern piece of land provides for 187 sq m which is close enough to 10% and when the northern section of 60 sq m is included, the 10% is exceeded. The proposed development does not significantly impact on the already permitted open space to serve the Ely Square development and I am satisfied that the minimum standard of 10% of the site area to provide for open space is met by this proposed development.
- 7.3.3. The quality of the open space was referred to in the reason for refusal. The larger area of open space is located to the south of the site and this location will receive the greatest amount of sunlight over a day, having regard to its location adjacent to boundary walls etc. The useability of this limited piece of open space will not be negatively impacted upon by its location on site and its almost square shape allows for some recreational value. I do note from the First Party appeal response that there are a number of large public parks within walking distance of this site. In general, the area is well served by amenity lands and social infrastructure.
- 7.3.4. The applicant complies with the requirements of the apartment guidelines in reference to minimum open space areas, as set out in Appendix 1. The guidelines allow for a relaxation of open space in urban infill areas where the site is up to 0.25 hectares. The consequence of this is that developments of less than 0.25 hectares with high density development will only generate relatively small areas of communal/public open space, as is the case with the subject appeal.
- 7.3.5. The applicant meets the minimum quantities as set out by the Dun-Laoghaire Rathdown County Development Plan 2016 – 2022 and also meets the requirements of Appendix 1 of the Sustainable Urban Housing: Design Standards for New

Apartments; the quality of the open space is limited by the area of the open space. The open space is not piecemeal as the majority of it is provided in the one location within an almost square area of land and the submitted landscaping details provided by Ronan MacDiarmada + Associates Ltd. demonstrate that limited play equipment can be provided here.

- 7.3.6. I note the revisions proposed to increase the amount of open space; as this is dependent on the use of grasscrete, I do not consider that the revisions provide for any significant additional, useable open space to serve the residents of this development.
- 7.3.7. I therefore disagree with the first part of the reason for refusal and I am satisfied that the development provides for adequate open space to serve this development.

7.4. Design and Impact on the Character of the Area

- 7.4.1. The site history is noted, however guidelines in the form of the 'Sustainable Urban Housing: Design Standards for New Apartments' and 'Urban Development and Building Heights Guidelines for Planning Authorities' allow for greater densities in urban areas and with a presumption that taller buildings be allowed, but not at the expense of existing residential amenity. I will comment later in this report on the potential impact on residential amenity.
- 7.4.2. The proposed apartment block is a long, slender block with a length of 54.4 m and a width of 9.2 m and a height of 14.325 m. Details of the external finish only refer to a mix of 'Render/ Brickwork Elevations' and details to be agreed with the Planning Authority. The existing houses in Ely Square are generally red brick to the front and side elevations with render to the rear elevations. I would suggest that brick would be an appropriate finish here though the upper floors (first to third floor) should be finished in a lighter coloured red/ brown brick and the ground floor to be finished in a similar colour brick to the existing houses.
- 7.4.3. Apartment blocks have become more common in the immediate Rathfarnham/ Nutgrove area, the adjoining Loretto Abbey site includes five storey apartments and I note that a number of the houses in Ely Square are effectively three storey units with dormers provided at roof level. I am satisfied that the proposed development can visually integrate into its surroundings.

7.5. Impact on Residential Amenity of Future Occupants

- 7.5.1. The proposed development provides for adequate room sizes in accordance with the apartment guidelines and adequate storage provision is available to future occupants. The mix of units, which includes for one, two- and three-bedroom apartments, will provide for different housing/ tenure needs. Two lift and stair cores are provided, serving two and three units per upper floor, respectively. This is acceptable.
- 7.5.2. Generally, the apartment units are provided with adequate private amenity areas in the form of balconies on the upper floors and terraces on the ground floors. I note that the one-bedroom units are only provided with 4 sq m of private amenity space, when the minimum should be 5 sq m (4 sq m is acceptable for studio units). It is possible to revise this by way of condition, to make up the shortfall through a modest extension to these balconies. The depth of the balconies meets the 1.5 m requirement.
- 7.5.3. The two- and three-bedroom units are indicated as dual aspect, with the one-bedroom units only single aspect but they will be west facing and have the benefit of good afternoon/ evening sunlight. The floor to ceiling heights as indicated on the cross sections, at 2.7 m for the upper floors and 3 m for the ground floor, are acceptable and are in accordance with the requirements of the apartment guidelines. Overall, I consider that the proposed units will provide for a high quality of residential amenity for future occupants.
- 7.5.4. The second part of the reason for refusal refers to the '...cramped form of development, reliant on adjoining lands, not in the applicant's control, to provide residential amenity for future residents'. I disagree with this. The development does benefit from its location adjacent to the public open space to the west of the site, but as this is designated public open space, it will not be developed for any other purpose in the foreseeable future and although located in a different administrative area, there is no restriction on who can use or benefit from such open space. A greater concern would exist if the adjoining lands were suitable for development and the subject proposal could impede such development; this issue does not arise in this case. The issue of separation distances is considered in the next section of this report.

7.6. Impact on Existing Residential Amenity

- 7.6.1. The letters of objection/ subsequent observations raise a long list of concerns in relation to impact on existing residential amenity. I note again the history of the site, however the applicant may decide to revise an application at any stage and in doing so, shall have regard to the requirements of the time that the application is lodged. Development is not static and extensions to houses demonstrate this fact.
- 7.6.2. Overlooking was raised in a number of the observations and reference was made to separation distances and the need for a minimum of 11 m between a development and the boundary it faces. Overlooking does not arise to the north or the south of this apartment block. The southern elevation has been carefully designed to only include very narrow windows in this elevational treatment and a separation of 22.5 m between these windows and the boundary to the south is provided. The separation is increased to circa 30 m between this elevation and the houses to the south. The separation between the block and the houses to the west in Stonepark Abbey is between 37 and 40 m. The quoted minimum separation of 11 m refers to a standard of 22 m between directly facing rear first floor windows. In this case the separation is between the apartments and front of the houses on Stonepark Abbey. The same level of privacy protection does not apply to the front of residential units as the public street/ road removes the restriction/ expectation on privacy.
- 7.6.3. Between the apartment block and Stonepark Abbey is an area of open space that is associated with the housing development. I appreciate the importance of this area of open for the residents here and I also note that a number of the observations referred to this space as having been taken in charge by South Dublin County Council; this space is therefore public land available to all to use for amenity purposes. I would suggest that the apartment block improves the amount of passive surveillance of this space and actually provides for a greater sense of security in the area. This is a linear piece of open space only overlooked on one side with a high wall on the eastern side, the proposed development will significantly improve the passive surveillance of this space.
- 7.6.4. I note the comments made by the adjoining school regarding overlooking etc. The proposed development provides for a separation of over 11 m between the apartments and the school boundary. In this case the school is constructed almost

on the site boundary. The balconies serving the apartments are located on the western side of the block and it is probable that this side will become the more active side of the apartment in terms of private amenity use etc.

- 7.6.5. Overshadowing was raised also in some of the observations. The public green serving Stonepark Abbey will be overshadowed in the early morning but by late morning the sun will have moved around, and no undue impacts are likely to the open space. Any overshadowing of houses here will be in the early morning and only to the front of these units. The private amenity space of the Stonepark Abbey and Ely Square houses will not be impacted by overshadowing. The garden area to the north/ north west of the school may be overshadowed but again only in the evening in spring/ autumn and late evening in the summer, times when the school is not in use.
- 7.6.6. I do not foresee that this development will be overbearing on the visual amenity of the area. As already reported, there are taller buildings in the immediate area and this apartment block will not stand out in its urban setting.
- 7.6.7. One of the greatest areas of concern was the replacement of a wall with railings along the western boundary of the site. The existing boundary wall appeared to be in good condition when I was on site, however I only got to see closeup, the western side, addressing Stonepark Abbey. I am assuming that the wall is removed to allow for greater light into the units on the ground floor, in particular maximising the amount of west/ south west light available. I have no objection to the replacement of the wall with railings etc, though I would suggest that a similar boundary to that indicated on the Ronan MacDiarmada + Associates Ltd, Drawing no.01 be provided along the western side/ boundary with a low wall of 600 mm and a painted solid bar fence of 1.6 m on top, be provided, between brick piers/ existing piers. The modest increase in height in the boundary to 2.4 m should reduce concerns regarding security issues, though I consider this issue to be overstated and will be reduced by the presence of the apartments themselves.

7.7. Traffic and Parking

- 7.7.1. The Dun Laoghaire-Rathdown County Council Transportation Department referenced a number of issues that required further information. A total of 19 car parking spaces are provided – one per apartment. I am satisfied that there is

adequate public transport in the area to serve this relatively modest development. Bus services are in the form of radial routes to the city centre and orbital routes serving much of south County Dublin.

- 7.7.2. Access to the apartments is possible for pedestrians in a safe manner. I am satisfied that adequate bicycle parking can be provided, and I note that motorcycle parking spaces are provided for.
- 7.7.3. Concern has been raised about the increase in traffic from the development. As already reported, the site is in an established urban area and where public transport is available. I do not foresee that the proposed development will have any significant impact on traffic levels along Nutgrove Avenue.

7.8. Other Issues

- 7.8.1. I note that the Housing Department have no objection to the development and that details can be agreed following a grant of permission.
- 7.8.2. The proposed apartment roof is to be finished with sedum to provide for a green roof. This will be designed to meet the requirements of Dun Laoghaire-Rathdown County Council's Green Roof Guidance Document.
- 7.8.3. The submitted landscaping plan and associated detail is considered to be acceptable. The protection of existing trees was a matter of concern raised in the submitted observations; these trees are outside of the site and it should be conditioned that suitable measures be taken to protect trees especially during the replacement of the wall with a fence. If permission is to be granted, it is recommended that the applicant/ developer consult with South Dublin County Council in relation to the provision of suitable tree protection measures.
- 7.8.4. A number of the received observations raised concern that the removal of the boundary wall between Stonepark Abbey and Ely Square would allow for the provision of an opening/ gate in the boundary, thereby allowing for access between the two sites. I note the NTA guidelines in relation to permeability, however I do not consider the layout of the site to be suitable for a pedestrian/ cycle route. The area of land to the south of the apartment block provides for a modest pieced of public open space and any route in the vicinity would significantly reduce its amenity value.

I would suggest that better/ more appropriate connections could be provided, not through the appeal site, and which should undergo appropriate public consultation.

- 7.8.5. No report or comment has been sought/ received from South Dublin County Council. I do not foresee that the development will impact negatively on the public open space to the west of the subject site. As already reported, the improved passive surveillance of the public open space area is likely to be of benefit. It is appropriate that the developer contacts South Dublin County Council in relation to the replacement of the wall to the western boundary and to ensure that all trees on the open space area are suitably protected.
- 7.8.6. Concern was raised in relation to the management of waste and the provision of a waste room. There are basic standards that have to be met in relation to the storage of waste and I do not foresee that the residents of an apartment development would endure poor waste management/ control measures.
- 7.8.7. I note that much reference has been made to legal agreements etc. in the past. I do not consider that these restrict the development of the site and in particular the replacement of the wall with a railing ensures the continued securing of both sites from access as appears to be required in one of the legal documents.
- 7.8.8. The lack of supporting documentation was referred to in a number of the observations. Included with the statutory documents are a 'Planning Application Report' by Brock McClure, an 'Energy & Sustainability Report' by the applicant, an 'Outdoor Lighting Report' by Sabre Electrical Services Ltd, an 'Infrastructure Design' by M.T.Hamm Consulting Engineers and a brief architectural statement by Bright Design Architects. The submitted elevational drawings and plans provide additional contextual information such as the elevational drawings indicating adjoining structures. I am satisfied that sufficient supporting documentation was submitted with this application.

7.9. Appropriate Assessment Screening

- 7.9.1. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the following conditions and reasons.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, relevant National Guidelines and the zoning of the site for residential purposes, to the location of the site in an established urban area within walking of frequent public transport and to the nature, form, scale, density and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential, visual or environmental 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.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application submitted on the 10th of March 2020, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>This permission is for 19 no. residential units in the form of four no. one bedroom apartments, eleven no. two bedroom apartments and four no. three bedroom apartments.</p> <p>Reason: In the interest of clarity.</p>

3.	<p>Prior to the commencement of development, the developer shall provide, for the written agreement of the Planning Authority:</p> <ul style="list-style-type: none"> a) The boundary to the west of the site to consist of a brick finished plinth wall of 600 mm in height with a painted solid bar fence of 1.6 m on top, between brick finished pillars of a suitable height. b) The balconies serving the one-bedroom apartments shall provide for a minimum area of 5 sq m. c) Full details of the proposed external design/ finishes in the form of samples and on-site mock-ups. These details shall include photomontages, colours, textures and specifications. The ground floor shall be finished in brick in a similar colour to the existing houses in Ely Square and the upper floors to be a mix of brick, though of a lighter colour to that used on the ground floor. d) The apartment terrace/ balcony railings/ supports shall be painted/ coated metal and shall not be unpainted galvanised metal railings. <p>Reason: In the interest of visual amenity.</p>
4.	<p>The internal road network serving the proposed development, including turning bays, parking areas, footpaths and kerbs, and the junction with the existing street network shall be in accordance with the detailed standards of the Planning Authority for such works.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
5.	<p>Proposals for a development name, unit 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 apartment unit 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.</p>

	<p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
6.	<p>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.</p> <p>Reason: In the interest of public health.</p>
7.	<p>The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
8.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas, or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
9.	<p>a) The landscaping scheme and associated details as indicated on drawing no. 01, 02 and 03, as submitted to An Bord Pleanála on the 23rd day of July 2020, shall be carried out within the first planting season following substantial completion of external construction works.</p> <p>b) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the Local Authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p>

	Reason: In the interest of residential and visual amenity.
10.	<p>(a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained on the open space to the west of the subject site serving Stonepark Abbey, shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.</p> <p>(b) No construction equipment, machinery or materials shall be brought onto this area of open space for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.</p> <p>(c) The developer shall consult with South Dublin County Council prior to the commencement of development in relation to the protection of this area of public open space and shall submit for the written agreement of the Planning Authority, Dun Laoghaire-Rathdown County Council, that all requirements are met.</p> <p>Reason: To protect trees and planting during the construction period in the interest of visual amenity.</p>
11.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between the hours of 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.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>

12.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, a fully details Construction Traffic Management Plan, noise management measures and off-site disposal of construction/ demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
13.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>
14.	<p>(a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company</p> <p>(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.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
15.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.</p> <p>Reason: In the interest of orderly development and the visual amenities of the area.</p>

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

	<p>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.</p> <p>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.</p>
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Paul O'Brien
Planning Inspector

19th November 2020