



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307693-20

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<b>Development</b>	Demolition of derelict dwelling and construction of 28 student accommodation units.
<b>Location</b>	Denton, Bray Road, Cabinteely, Dublin 18.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D20A/0218
<b>Applicant(s)</b>	Slieve League Developments Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Slieve League Developments Limited
<b>Observer(s)</b>	Dave and Carrie Caffrey
<b>Date of Site Inspection</b>	3 <sup>rd</sup> November 2020
<b>Inspector</b>	Emer Doyle

## 1.0 Site Location and Description

- 1.1. The subject site is located on the eastern side of the N11, Cabinteely, Dublin and has a stated area of 0.1069 hectares.
- 1.2. The site is rectangular in shape and contains an existing derelict bungalow which is currently accessed off the N11.
- 1.3. Adjacent development to the south includes a row of five dwellings, all with their own entrances directly to the N11. A laneway which serves a number of residential properties is located directly to the north of the site and a large service station is located further to the north of the site. Development to the west on the opposite side of the N11 includes a large housing development currently under construction. Kilbogget Park and Cabinteely Running Track are located in the immediate vicinity of the site to the east. An existing 38Kv overhead powerline runs roughly parallel to the northern boundary of the site.
- 1.4. The section of the N11 bounding the site is a quality bus corridor/ bicycle lane.

## 2.0 Proposed Development

- 2.1. Permission is sought for the demolition of the existing derelict dwelling on site and the construction of 28 No. en-suite student accommodation units (comprising 24 x single bedroom units and 4 x twin bedroom units, to accommodate 32 bedspaces overall) with 972m<sup>2</sup> overall floorspace.
- 2.2. The west side of the building facing the N11 is 3 storeys in height addressing the corner of the N11 and Kilgobbet Grove. Access is proposed from Kilbogget Grove. The development is designed as a 'car free' development.
- 2.3. The following documentation accompanies the application:
  - Planning Report
  - Design Statement Report
  - Traffic Assessment Report
  - Engineering Services Report
  - Landscape Report

- Potential Daylight and Sunlight Impact Report
- Screening for Appropriate Assessment Report
- Ecological Impact Assessment Report
- Photomontages

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. Permission refused for one reason as follows:

3.1.2. The subject site fronts onto and would be accessed from a laneway off the N11 roadway, which provides an important part of the link road between the City Centre and the southern parts of Dublin/ Greater Dublin Area. The additional traffic (taxis, drop offs/ collections, deliveries) turning movements generated by the proposed development would endanger public safety by reason of traffic hazard, and would have a seriously adverse impact on the carrying capacity of the National roadway. In addition, the proposed development would contravene Policy ST26 of the Dun Laoghaire Rathdown County Development Plan 2016-2022, which states an objective to facilitate the protection of National Routes (i.e. the N11) and to provide, protect and maintain for the safe and efficient movement of people and goods. The proposed development, if permitted, would set an undesirable precedent for further future development which would adversely affect the use of a National Primary Road (N11) by traffic with consequent implications for public safety and the carrying capacity of the N11 roadway, 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 considered that the principle of development was acceptable. It was considered that the development would comply with the Guidelines for Residential Developments for Third Level Students (1999 and

2005). The key concern raised related to the absence of car parking and the proximity to a busy fuel station on the N11. It was noted that the access had been relocated from the previous application on the site but it was considered that this had not addressed the issues in relation to traffic safety. It was noted that the proposed connection point to the sewer is on third party lands (wooded area associated with Kilbogget Park) and no letter of consent was submitted for these works.

### 3.2.2. Other Technical Reports

**Transport Section:** Refusal recommended for 2 No. traffic safety reasons. Notes that access/egress to the site is directly from the N11 dual carriageway and adjacent to a busy Fuel Station. Vehicles exiting this station are accelerating to join the traffic flow. Increasing activity by this adjacent development is considered a hazard. The applicant needs to seek an alternative access route to the site.

**Drainage Section:** Further Information Required.

**Environment Section:** Further Information Required.

**Housing Section:** Considers that Part V exemption under Section 96(13) of the Planning and Development Act does not apply to this site as 'off campus' student housing is subject to Part V obligations.

### 3.3. Prescribed Bodies

3.3.1. **Irish Water:** Required Further Information. The proposed sewer connection is located on third party lands. The applicant is required to submit a letter from Dun Laoghaire Rathdown County Council (Parks and Landscape Services) consenting to the connection being made in the wooded area.

3.3.2. **Transport Infrastructure Ireland:** The Authority will rely on the Planning Authority to abide by official policy in relation to development on National Roads.

### 3.4. Third Party Observations

3.4.1. Three third party observations were submitted to the Planning Authority. One of the observations submitted expressed support for the proposed development. The points

made in the two other third party submissions are similar to the observation submitted to the appeal.

## 4.0 Planning History

The Planning Report provides a very detailed history of the site. I consider that the most relevant history applications are as follows:

### **PA D19A/0656**

Permission refused by Planning Authority for demolition of existing single storey dwelling and construction of 28 No. student accommodation units for one reason relating to traffic safety.

### **PA D16A/0756/ PL06D.247846**

Permission refused by Planning Authority and by ABP on appeal for demolition of existing derelict house and construction of 4 No. dwellings for two No. reasons relating to traffic safety and impacts on residential amenity.

### **PA D08A/0288/ PL06D.229396**

Permission refused by Planning Authority and by ABP on appeal for demolition of existing dwelling and for construction of 2 No. semi-detached dormer bungalows for one reason relating to traffic safety.

### **PA 06D/1489/ PL06D.223849**

Permission granted by Planning Authority and refused by ABP on appeal for demolition of existing derelict house and construction of 4 No. dwellings for 2 No. reasons relating to visual impact and impacts on residential amenity of the area.

## 5.0 Policy Context

### 5.1. National Policy and Guidance

- 5.1.1. The following section 28 Ministerial Guidelines provide guidance for multi-storey urban residential developments.

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas including the associated Urban Design Manual.
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities.
- Design Manual for Urban Roads and Streets (DMURS).
- Urban Development and Building Heights – Guidelines for Planning Authorities.

5.1.2. The following policy documents are also relevant:

- National Student Accommodation Strategy, Dept. of Education and Skills, 2018.
- Dept. of Education and Science ‘Guidelines on Residential Developments for 3rd Level Students Section 50 Finance Act 1999’ (1999 and 2005).
- Dept. of Education and Science ‘Matters Arising in Relation to the Guidelines on Residential Developments for 3rd Level Students Section 50 Finance Act 1999.’ (July 2005)
- Rebuilding Ireland- National Student Accommodation Strategy 2017.

## 5.2. **Development Plan- Dun Laoghaire Rathdown County Development Plan 2016-2022**

5.2.1. The site is zoned ‘Objective A – to protect and or improve residential amenity’. The N11 is identified as a quality bus corridor.

5.2.2. Policy ST26: Motorways and National Routes

It is Council policy to promote, facilitate and co-operate with relevant transport bodies, authorities and agencies to secure improvements to the County’s Motorway and National Road network to provide, protect and maintain for the safe and efficient movement of people and goods both within and through Dun Laoghaire- Rathdown.

5.2.3. Policy RES 3 Residential Density:

*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. In promoting more compact, good quality, higher density forms of residential development ...*

*Where a site is located within circa 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 at a minimum of 50 units per hectare will be encouraged.*

5.2.4. Policy RES12 Provision of Student Accommodation:

*It is Council policy to facilitate student accommodation on student campuses or in locations which have convenient access to Third Level colleges (particularly by foot, bicycle and high quality and convenient public transport) in a manner compatible with surrounding residential amenities. In considering planning applications for student accommodation the Council will have regard to the 'Guidelines on Residential Developments for Third Level Students' and its July 2005 Review (particularly in relation to location and design).*

Section 8.2.3.4 (vii) refers to student accommodation. The following points are noted:

- All proposals for student accommodation should comply with the Department of Education and Science Guidelines on Residential Development for Third Level Students (1999), the subsequent supplementary document (2005) and the 'Student Accommodation Scheme', Office of Revenue Commissioner (2007) -dealing with matters arising from the Guidelines and providing clarity in relation to definitions of 'students' and 'educational institutions' and recommendations in relation to minimum bed-space and other similar requirements.
- When dealing with planning applications for student off-campus developments a number of criteria will be taken into account including:
  - The location of student accommodation within the following hierarchy of priority:
  - On Campus
  - Within 1km distance from the boundary of a Third Level Institute

- Within close proximity to high quality public transport corridors (DART, N11 and Luas), cycle and pedestrian routes and green routes

In all cases such facilities will be resisted in remote locations at a remove from urban areas.

- The potential impact on residential amenities. Full cognisance will be taken of the need to protect existing residential amenities particularly in applications for larger scale student accommodation, and such accommodation will not be permitted where it would have a detrimental effect.
- The level and quality of on-site facilities, including storage facilities, waste management, covered cycle parking and associated showers and locker, leisure facilities, car parking and amenity.
- The architectural quality of the design and also the external layout, with respect to materials, scale, height and relationship to adjacent structures. Internal layouts should take cognisance of the need for flexibility for future possible changes of use.
- The number of existing similar facilities in the area. In assessing a proposal for student accommodation the planning authority will take cognisance of the amount of student accommodation which exists in the locality and will resist the over-concentration of such schemes in any one area in the interests of sustainable development and residential amenity.

### **5.3. Natural Heritage Designations**

5.3.1. The following sites are in the vicinity of the site:

- Rockabill to Dalkey Island SAC
- Dalkey Island SPA
- Ballyman Glen SAC
- Knocksink Wood SAC



## 5.4. EIA Screening

- 5.4.1. Having regard to the nature of the development and the urban location of the site 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 proposed development does not contravene Policy ST26 on National Roads.
- This is a car free development for student housing.
- The Planning Authority has failed to take into account that the site is now proposed to be accessed from Kilbogget Grove rather than the N11 and there is a new signalised junction 160m north of the site.
- The Board is advised that the applicant spent a considerable amount of time engaging with adjoining owners (as directed by the Planning Authority) to establish if a wider scheme to remove several of the existing access points off the N11 would be feasible. This has proved to be undeliverable.
- A road safety audit was submitted with the application which identified 5 No. issues but traffic safety on the N11 was not highlighted as an issue.

### 6.2. Planning Authority Response

- The Planning Authority attaches further comments from the Transportation Planning Section which recommends refusal and considers that the proximity to the service station poses a traffic hazard and that the new traffic lights will provide a new acceleration zone for the traffic existing the traffic in Cherrywood, which signals further intensification.

### 6.3. Observations

One observation has been submitted which can be summarised as follows:

- With 32 people living at the property, to assume that there would not be considerable movement of traffic from residents, social callers, delivery drivers, taxi drivers, service people etc. is absurd.
- No provision for parking which would lead to illegal parking on the N11 or the use of Kilbogget Grove.
- Concerns regarding overbearing impact and overshadowing.
- Concerns regarding noise impacts of 32 No. students.
- A minimum of a 3m wall would be necessary for security, privacy, and noise reduction.

## 7.0 Assessment

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

- Impact on Residential Amenity
- Traffic Safety and Parking
- Appropriate Assessment

### 7.2. Impact on Residential Amenity

7.2.1. The main concerns raised regarding impact on residential amenity relate to overbearing impact, overshadowing and noise associated with students.

7.2.2. Having regard to the orientation of the site, the separation distances involved, and the design of the proposed units, I do not have undue concerns in relation to the impacts on amenity. Indeed, I consider that the design has been carefully thought out and responds to the corner location of the site, the proximity to the N11 and the proximity to adjoining residences with the three storey element to the front of the

building addressing the N11 and Kilbogget Grove and a single storey element to the rear of this. I also note that the windows at first and second floor level closest to the residential property to the south are angled away from this property.

- 7.2.3. In terms of noise, I consider that it is inevitable that there may be some element of noise associated with student accommodation at this location. Nevertheless, having regard to the limited size of the development, there is no evidence available to me that noise levels would be excessive to such an extent that would warrant a refusal of permission on these grounds. However, if the Board is disposed towards a grant of permission, I recommend that a condition could be included to safeguard residential amenities in this regard.

### **7.3. Traffic Safety and Parking**

- 7.3.1. The Planning Authority have refused permission for one reason only relating to traffic safety. The concerns raised in the observation submitted relate to increase in traffic movements on the N11 and the lack of parking.
- 7.3.2. The appeal considers that the proposed development does not contravene Policy ST26 and the reason for refusal should be dismissed. It is considered that the site is a car free development for student housing and that the Planning Authority have not given adequate consideration to the access to the site from Kilbogget Grove rather than the N11 and the creation of a new signalised junction 160m to the north of the site.
- 7.3.3. The proposed development consists of student accommodation with a total of 28 No. bedrooms served by 30 No. cycle parking spaces and no car parking provision. I note that the site is very well served by public transport options. Section 4.19 of 'Sustainable Urban Housing: Design Standards for New Apartments' states that in such locations the default policy for car parking provision can be minimised, substantially reduced or wholly eliminated in certain circumstances. I have concerns regarding the complete absence of car parking for residents at this off campus location. I consider that there are inevitably certain circumstances where students will need to have long term car parking available to them. I accept the point made in the appeal that the nature of the proposed development as student accommodation

has distinctively different characteristics to standard residential accommodation and have given this careful consideration.

- 7.3.4. The Planning Authority report noted that in a previous application on the site, the Transportation Section did not support the provision of student accommodation without car-parking on the basis that it could give rise to inappropriate/ illegal car parking patterns and would set an undesirable precedent for similar development in the area. I concur with these concerns and consider that whilst there may well be a strong case for a reduction in car parking, the location of the site proximate to the N11 and a busy petrol station taken together with the absence of car parking would in my view endanger public safety by reason of traffic hazard. I consider that the location is unforgiving if there were to be any illegal car parking. The section on Parking Management in the Traffic Assessment Report acknowledges that the management company will work closely with the guards and Local Authority to prevent any un-authorised off street car parking. It is also proposed that the management company will closely monitor the use of the set down area and open plan area with an enforcement system in place to address any issues of unauthorised car parking. Notwithstanding these measures, together with the proposal to advise students at the early stages of the rental process that no car parking is provided, I have serious concerns in relation to the impacts of any potential unauthorised car parking at this location.
- 7.3.5. Policy ST26 and Section 2.2.10.2 of the Development Plan refers to Motorway and National Routes and states that the Council will facilitate the protection of all National Routes from frontage access and minimize the number of junctions in accordance with Transport Infrastructure Ireland's Policy and the Department of Environment, Community and Local Government's 'Spatial Planning and National Roads Guidelines for Planning Authorities' 2012.
- 7.3.6. The appeal points out that since the last application on the site, a new signalised junction has been created 160m to the north of the site. It is also proposed to access the site from Kilbogget Grove rather than directly from the N11.
- 7.3.7. The report from the Planning Authority in response to the appeal includes a report from the Transportation Section regarding same. The report notes the following:

7.3.8. *'At present, this cul de sac is relatively unused. This proposal will significantly increase the movements at this junction. The location of the service station in relation to this junction poses a hazard because traffic exiting the service station is accelerating onto a one-way system. It has been observed that the bus lane is used as a merging lane for this purpose. A vehicle exiting from Kilbogget Grove will have to merge onto the N11 in a similar manner.*

*Although the development is stated as being car free, vehicles nevertheless will require access/egress facilities, and this report identifies a conflict with the service station traffic.*

*It is also considered that the new traffic lights will provide a new acceleration zone for the traffic exiting from the development in Cherrywood, which signals further intensification of development.'*

7.3.9. I note that a Traffic Assessment Report was submitted by the applicant with the application. The report notes that traffic flows in and out Kilbogget Grove are extremely low across the course of the day. It also notes that traffic flows onto the bus lane, 'which effectively acts as a buffer lane to the N11'. It notes that instead of car parking, 'an appropriately sized set down area has been provided for collection/drop off and to facilitate the infrequent, short term set down of servicing vehicles which will prevent any potential blockage of the public road network.' I note that a Road Safety Audit was also carried out which highlighted five potential issues with responses to deal with these issues.

7.3.10. Neither the Road Safety Audit or the Traffic Assessment Report address the issue of the proximity to a busy petrol filling station adjacent to Kilbogget Grove. On the site inspection, I noted that traffic exiting the station uses the bus lane in order to merge onto the N11. Whilst, I didn't encounter any traffic on Kilbogget Grove on the inspection, I note from the Traffic Assessment that traffic exiting from Kilbogget Grove also uses the bus lane to merge onto the N11.

7.3.11. I concur with the response of the transportation department to the appeal and consider that neither the revised location of the access onto Kilbogget Grove or the new traffic lights 160m north of the site on the N11 address the previous reasons for refusal. Indeed, the new lights pose an additional traffic safety issue as they provide for a new acceleration zone for traffic from Cherrywood. In addition, whilst I note the

accessible location of the site, the proximity to public transport and extra cycling spaces proposed over the development plan requirements, and the management plans to prevent long term car parking on the site or in the area of the site, I am not satisfied that the absence of car parking is acceptable on this site and would set an undesirable precedent for similar type developments in the area.

#### **7.4. Appropriate Assessment**

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

#### **8.0 Recommendation**

- 8.1. I recommend that permission is refused for the following reason:

#### **9.0 Reasons and Considerations**

1. Having regard to the access of the site onto a laneway accessed from the N11, taken together with the absence of long term car parking for the intended student occupants, it is considered that the additional traffic turning movements generated by the proposed development onto the heavily trafficked N11, would endanger public safety by reason traffic hazard and would have a seriously adverse impact on the carrying capacity of the National Route (N11). The proposed development would contravene Section 2.2.10.2 Policy ST26 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, which states that it is Council policy to facilitate the protection of National Routes (i.e. the N11) and to provide, protect and maintain for the safe and efficient movement of people and goods. The proposed development would, therefore, set an undesirable precedent for similar type developments along

the N11 and would be contrary to the proper planning and sustainable development of the area.

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Emer Doyle  
Planning Inspector

14<sup>th</sup> January 2021