



An
Bord
Pleanála

Inspector's Report

ABP-307722-20

Development	Permission for minor amendments to previously approved development (D19A/0201, ABP-305309-19) for apartment block.
Location	Old Meadow, Priory Avenue/Grove Avenue, Blackrock, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D20A/0322
Applicant(s)	Hanobu Limited.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party V Grant.
Appellant(s)	Martin and Irene Browne.
Observer(s)	None.
Date of Site Inspection	25 th November 2020.
Inspector	Susan McHugh

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1.0 Site Location and Description

- 1.1. The appeal site is located on a large corner site, at the junction of Priory Avenue, Avoca Avenue and Grove Avenue, Blackrock, Co. Dublin. It is approx. 1.2km from Stillorgan District Centre and 650km from the N11 QBC.
- 1.2. The surrounding area is generally characterised by detached dwellings of varying architectural styles on substantial sites, a number of which are protected structures.
- 1.3. The site is bounded to the north by Priory Avenue, from which access is provided and to the east by Grove Avenue. A small infill development of three no. houses is located to the south along Grove Avenue. 'Forgney Grove', 1 Grove Avenue, adjoins the appeal site and abuts the southern boundary of the appeal site. The site is bounded to the west by a detached two storey house.
- 1.4. The appeal site benefits from an approved residential scheme of houses and apartments for 14no. units, including demolition of the existing house on site. Site development works have commenced, with hoarding erected along the north and eastern boundaries with the public road.
- 1.5. The partly demolished three storey, part two storey detached dwelling 'Old Meadow' is located in the centre of the appeal site, at approximately a 45 degree angle to the junction.
- 1.6. A residential property 'Magenta' is located to the east, on the opposite side of Grove Ave. This property is also located on a corner site and is home to the appellant's in the current case.
- 1.7. The stated area of the appeal site is 0.2543.

2.0 Proposed Development

- 2.1. Permission is sought for minor amendments to previously approved development, reference P.A. Reg.Ref.D19A/0201, ABP-305309-19. Proposed alterations comprise of:
 - Addition of basement plant area (18.5sqm total) below apartment building.
 - Reduction in area of penthouse apartment (unit 14) in the North East corner, to be replaced with increased terrace area (5.5sqm total).

- Revisions to bin store and pedestrian entrance off Grove Avenue.
- Amended fenestration detail on all elevations with some additional openings.
- Amendments to finishing materials.
- Omission of chimneys on all 5 no. houses.
- Amendments to finished floor level of House No.s 1, 2 and 3.
- Amendment to Southern boundary wall between the subject site and the property to the south ('Forgney Grove').
- Provision of an ESB substation in the North Western corner of the site.
- All associated site works necessary to facilitate the development.

2.2. Public notices note the development is otherwise identical to that approved in terms of site and road layout, carparking, landscaping, drainage, unit area/heights and number of units to be provided.

2.3. The application was accompanied by a letter from the owners of the adjoining property 'Forgney Grove' in respect to agreed details pertaining to works to the shared boundary.

3.0 Planning Authority Decision

3.1. Decision

The decision to **grant** permission dated 2nd July 2020 is subject to 5 no. conditions. Conditions of relevance to the appeal include;

Condition No. 2. Save for amendments granted, development to be carried out in accordance with P.A.Reg.Ref. D19A/0201 ABP-305309-19.

Condition No. 3. Details/samples of revised palette of materials and finishes to be agreed.

Condition No. 4. Tree protection plan and arboricultural report requirements.

Condition No. 5 Roads requirements as per previous permission.

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 02/07/2020)

Basis for planning authority decision. Include:

- *Basement plant area* – Will not increase the footprint of the existing permitted building and will not adversely impact upon the residential amenity of properties within the vicinity.
- *Penthouse apartment* – Minor reduction in floor area of proposed apartment No. 14. Size of the permitted dining room to be reduced to provide marginally larger terrace. Proposed modifications will provide more functional and useable open space area and will enhance the amenity of the permitted apartment. Given the location of the terrace (i.e. NE corner of the building) and separation distances to adjoining properties, satisfied proposal will not result in undue overlooking.
- *Bin store and pedestrian entrance* – Relocation from off Grove Avenue to southern and eastern site boundary, acceptable having regard to the visual and residential amenity of the surrounding area.
- *Amendments to fenestration, openings and finishes* – Changes are largely cosmetic. Modifications to fenestration on the apartment building and houses not considered to give rise to additional overlooking. Revisions do not detract from the design quality of the originally permitted scheme and are acceptable. Condition recommended requiring details to be agreed.
- *Omission to chimneys* – To 5 no. houses acceptable.
- *Finished floor levels* – Proposed overall height of 3 no. dwellings (House No's. 1,2 and 3) reduced by c.1500mm so that they align with the permitted ridge height of House Nos. 4 and 5, is acceptable.
- *Southern boundary wall* – Amendment comprises a c.2m high concrete wall with a c.750mm timber hit and miss topping acceptable given orientation of the site, height and quality of proposed boundary treatment.

- *ESB Substation* – Location acceptable, concern raised regarding the viability of existing street tree. Condition recommended requiring the submission of a tree protection plan and supporting arboricultural report.

3.2.2. **Other Technical Reports**

Drainage: No objection - subject to there being no change to the Drainage proposals from those approved (with condition) in the parent permission.

Transportation: No objection subject to conditions.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

A submission was lodged by the appellants in the current appeal raising similar issues to those raised in the grounds of appeal see Section 6 below.

4.0 **Planning History**

P.A.Reg.Ref. D19A/0201 ABP-305309-19: Permission **granted** December 2019 for demolition of dwelling and associated outbuildings and construction of 5 houses and 9 apartments to Hanobu Limited. The apartment building is part 3 storey/part 4 storey (see file attached)

Condition No. 7 requires boundary treatment detail to be agreed.

Concurrent Appeal

P.A.Reg.Ref. D20A/00529 ABP-308440-20: Permission **refused** September 2020 by PA for amendments to previously approved development (D19A/0201, ABP-305309-19). First party appeal against the decision to refuse permission by the planning authority. Decision pending (see file attached).

5.0 Policy Context

5.1. Section 28 Ministerial Guidelines

5.1.1. The following guidelines are considered of relevance to the proposed development.

- ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ issued by Department of Housing, Planning and Local Government, March 2018.

5.2. Development Plan

5.2.1. 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:

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.

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

Section 8.2.8.4 sets out standards for private open space.

5.3. Natural Heritage Designations

There are no designated areas in the general vicinity.

Location	Designation	Site Code	Distance
South Dublin Bay and River Tolka Estuary	SPA	004024	1.3km E
South Dublin Bay	SAC	000210	1.3km E

5.4. EIA Screening

Having regard to the nature of the development comprising minor modifications to a permitted residential scheme 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

A third party appeal against the decision to grant permission by the planning authority has been lodged by Martin and Irene Browne owners of the adjacent property Magenta to the east of the appeal site. In summary, the appeal states:

- *Overlooking* - Proposed changes to fenestration and larger balcony area compared to that previously permitted, will increase overlooking of rear and side garden, and an unacceptable level of overlooking from habitable rooms.
- *Screening/Finishes* - Previously approved brise soleil/fins provided a level of mitigation to potential overlooking. Current proposal seeks to reduce and alter the nature of the proposed brise soleil.
- *Penthouse Balcony* – Proposed increase in the size of the penthouse balcony will result in increased overlooking of gardens.

6.2. Applicant Response

The applicant responded to the appeal as follows:

- *Overlooking* – Massing and siting of the building and general location of fenestration and balconies unchanged from the original application.
- *Openings* - Percentage of openings on eastern elevation (which is closer to Magenta) has reduced slightly from that previously granted permission.

- *Separation Distance* – Distance from eastern elevation of the proposed apartments building to Magenta is unchanged, at approx. 37m at its closest point to the boundary of the property measures on average over 15m.
- *Penthouse Balcony* – Located approx. 42m from Magenta.
- *Screening* – Significant planting around the perimeter of Magenta which provides significant screening of the property.
- *Fins* – Tweaked as an aesthetic modification only and not intended nor do they act as screening.
- *Revised Design* – Minor in nature and request the Board to uphold the decision of the PA.

6.3. **Planning Authority Response**

The planning authority refers to the planners report. Considers that the grounds of appeal do not raise any new matters which would justify a change of attitude to the proposed development.

6.4. **Observations**

None received.

6.5. **Further Response**

None received.

6.6. **Prescribed Bodies**

Appeal circulated to Department of Arts, Heritage, Regional and Gaeltacht Affairs, An Taisce, and Heritage Council with no responses received.

7.0 **Assessment**

- 7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Residential Amenity -Overlooking
- Other Matters
- Appropriate Assessment

I draw the Boards attention to the nature of the proposed amendments to the approved scheme which I consider to be very minor in the context of the overall development. The proposed development, as highlighted in the public notices '*is otherwise identical to that approved, in terms of site and road layout, carparking, landscaping, drainage, unit area/heights and number of units to be provided.*'

I have examined each proposed amendment in turn, both in plan and elevation and am satisfied, that the individual amendments are generally acceptable. I have, therefore, based my assessment on those proposed amendments to which the third party appeal relates, namely to the penthouse apartment, fenestration detail, and finishes/materials.

7.2. Residential Amenity

- 7.2.1. The appellants have raised concern in relation to overlooking of their property specifically from proposed changes to fenestration, screening/finishes and penthouse balcony area.
- 7.2.2. The permitted apartment building is located on the northern part of the appeal site and primarily addresses Priory Avenue from which a pedestrian entrance to the overall scheme is permitted under the parent permission. The eastern side elevation of the apartment block addresses Grove Avenue. The terrace of five no. two storey houses are set back from the eastern boundary from which a vehicular entrance and surface car park are permitted.
- 7.2.3. The appellants property is located opposite the appeal site on the other side of Grove Avenue. The appellants house 'Magenta' addresses Avoca Avenue to the north and is located on a generous corner site. The property benefits from a large front, side and south facing rear garden. I note from my site inspection that the front and side garden are planted with a variety of mature and primarily evergreen trees, while the boundary to the rear garden is more exposed.

- 7.2.4. The elevations of the permitted apartment block are to be finished in colour render and selected brickwork. The horizontal elements between first and second floor windows and above the windows at penthouse level are to be finished in metal cladding.
- 7.2.5. The proposed amendments to finishes now include the use of colour render in lieu of metal cladding, and the use of a colour cement cladding finish at penthouse level.
- 7.2.6. I note the current proposal makes no alteration to the permitted footprint of the overall residential development. The issue of potential overlooking of the appellants property as a result of the current proposed amendments, arises in the context of the north eastern element of the development namely along the eastern and southern elevations of the apartment building. There are also amendments proposed to the principal north facing and west facing elevation of the apartment block and to the front and rear elevations of the permitted houses.
- 7.2.7. Apartment unit nos. 8 and 9 located at first floor and unit no.s 11 and 12 at second floor level include large floor to ceiling height windows/sliding doors which provide access to balconies on the east facing elevation. A similar arrangement applies to windows and balconies serving first and second floor units on the north facing elevation.
- 7.2.8. The permitted balconies include external vertical fins/brise soleil on the outer balcony area, providing a degree of screening. It is proposed to reduce the number of vertical fins/brise soleil provided to the large floor to ceiling height windows at first and second floor to all 4 no. units on the east facing elevation. These windows serve habitable rooms. It is also proposed to make similar changes at first and second floor windows on the north facing elevation.
- 7.2.9. I viewed on the day of my site visit the subject site from the appellants property. I noted the existing boundary wall along the site boundary with Grove Avenue and mature trees located in the north western corner of the front/side garden.
- 7.2.10. In my opinion the use of vertical fins/ brise soleil is an attractive element of the overall design, and under the permitted scheme are in proportion to the size of the large window opes. I do not accept the assertion by the applicant that that they are not intended nor do they act as screening.

- 7.2.11. I consider notwithstanding the generous separation distance of approx. 37m at its closest point to the appellants house Magenta, and to front gardens of adjoining residential properties, that it is reasonable they be afforded a reasonable level of privacy. If the Board are minded to grant permission this element of the proposed amendments can be omitted by way of condition.
- 7.2.12. Apartment units nos. 8 and 11 include a small balcony area on the south east corner of the block with access provided from the adjoining bedroom. It is proposed to provide a metal balustrade to the outside of these two balcony areas where it appears there were none previously. I accept the need for a balustrade and consider the finish in this limited area to be acceptable. It is also proposed to change short sections of glass balustrade at penthouse level to a metal balustrade, which I consider acceptable.
- 7.2.13. It is also proposed to make a change to the window opening size of a single recessed window to the side of unit No. 9 and 12 located on the north eastern corner of the block. This I consider very minor and acceptable.
- 7.2.14. The penthouse apartment Unit 14 is located at third floor level. It benefits from a generous terrace area which extends along the northern and eastern elevations and short section of the southern elevation. Access to the balcony is provided from the kitchen/dining/living space along a recessed section of the eastern elevation of the unit.
- 7.2.15. It is proposed to alter the layout of the penthouse apartment by setting back part of the northern elevation by 1.1m and part of the eastern elevation by 0.5m. The area of the kitchen/dining/living space, therefore, is to be decreased by 5.5sqm with consequent increase in the overall area of the external balcony area. The floor area of the kitchen/dining/living area is therefore reduced to 67sqm. I concur with the PA in that this differential is marginal and I am satisfied that the amenity of the future occupants of this unit will not be diminished.
- 7.2.16. I note the overall area of the three bedroom apartment and balcony area of 174sqm and 71.5sqm respectively. Having reviewed the site layout plans and floor plans I am satisfied that the area of the balcony is in excess of the required standards set out in Appendix 1 of the Apartment Guidelines and table 8.25 of the development plan which refers to minimum private open space standards.

- 7.2.17. I also note the unit benefits from natural day light on three elevations and I am satisfied that the proposed amendment to the penthouse unit and balcony area are acceptable.
- 7.2.18. I have considered the generous separation distances from the penthouse to the appellants property to the east and can only reasonably conclude that the proposed setting back of elevations at penthouse level will not result in a significant increase in the potential for overlooking from the unit or the balcony area. I am satisfied therefore, that the proposed amendments to the penthouse apartment are generally acceptable.
- 7.2.19. In conclusion, I am satisfied that the proposed amendments are acceptable subject to the omission of the permitted vertical fins/brise soleil at first and second floor level to the apartment building.

7.3. **Other Matters**

- 7.3.1. **Tree Protection:** I note condition no. 4 of the notification of decision to grant permission which requires a tree protection plan and arboricultural report to be submitted and agreed with the P.A. This relates to the existing street trees and if the Board are minded to grant planning permission a similar requirement could be conditioned.

7.4. **Appropriate Assessment**

Having regard to the nature and scale of the development which consists of minor amendments to a residential infill development in a fully serviced urban location, 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**

- 8.1.1. I recommend that permission be **granted** subject to conditions for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan, 2016–2022, and to the overall scale, design and minor nature of the proposed amendments to an already permitted development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application 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. Save for amendments granted on foot of this permission, the development shall otherwise be carried out in strict accordance with the terms and conditions of planning permission Reg.Ref.D19A/0201, ABP-305309-19.

Reason: In the interest of clarity.

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

Reason: In the interest of visual amenity.

4. The proposed amendment to reduce the number of vertical fins/brise soleil to first and second floor windows along the eastern and norther elevation, shall be omitted.

Reason: In the interest of visual and residential amenity.

5. Prior to commencement of any permitted development, the developer shall engage the services of a qualified arborist to act as consultant, for the entire period of construction activity. The developer shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the tree reports and plans. To ensure the protection of trees to be retained within the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the Arboricultural Method Statement and Tree Protection Plan in the submitted tree report. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998:2010 - Tree Work. Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1st March to 31st August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to the planning authority upon completion of the works.

Reason: To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

Susan McHugh
Senior Planning Inspector

30th November 2020