



An
Bord
Pleanála

Inspector's Report ABP-310793-21.

Development	Modifications to condition 4 of PAs reg ref 2517/20 to allow for the sale, lease and/or allocation of parking space.
Location	Dunluce, 21 Anglesea Road, Ballsbridge, Dublin 4.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2618/21.
Applicant(s)	Blackhall Green Homes Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Blackhall Green Homes Ltd
Observer(s)	None.
Date of Site Inspection	15/09/2021.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject appeal site is located in the Ballsbridge area of Dublin City, to the south-east of the City Centre. The surrounding area is primarily residential in nature with some other uses also noted. The appeal site is located off Anglesea Road and is located to the rear of existing residential properties fronting the Anglesea Road. The River Dodder is located to the rear of the site (west) with Herbert Park located across the river. On the opposite side of Anglesea Road to the east are a church and the Royal Dublin Society (RDS) Showgrounds.
- 1.2. The site has been developed to provide an apartment development, known as 'Dunluce.' The subject site is accessed via a single lane access driveway, which provides a break in the row of semi-detached houses along Anglesea Road. This driveway also provides access to two further houses. The existing apartment development is gated, and I could not gain access to the site on the date of my site inspection.
- 1.3. The area of the subject site has not been stated in the application form, but a perusal of the planning history indicates that the area is 0.49 hectares. The site has been laid out to accommodate the permitted apartment scheme, associated car parking and landscaping.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for development consisting of a modification to Condition 4(a) of P.A. Reg. Ref: 2517/20 to allow for the sale, lease and/or allocation of the four car parking spaces to apartments within the development, Dunluce, 21 Anglesea Road, Ballsbridge, Dublin 4.
- 2.2. The application included a number of supporting documents including as follows;
 - Plans, particulars and completed planning application form,
 - Transport Statement.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the development for the following stated reason:

1. The proposal to re-allocate 4 visitor car parking spaces to resident spaces within the 'Dunluce' development would materially contravene a condition attached to an existing planning ref. 2517/20 condition 4(a) and would exceed the maximum car parking provision for car parking Zone 2 of 1 space per unit. The removal of the visitor parking would be injurious to the amenities of this residential development and thereby contrary to the Z1 zoning objective of the site which is 'to protect, provides and improve residential amenities' 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 the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the City Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

- 3.2.2. The planning report notes the previous application for seven additional parking spaces on the site, whereby the planning authority, in consultation with the Transportation Planning Division of Dublin City Council, granted permission for the retention of 4 spaces along the eastern boundary of the site only, and further, that these 4 spaces be permanently allocated and marked as visitor parking. The planning history specifically stipulates that these 4 spaces shall not be sold, rented or otherwise sub-let or leased to other parties.
- 3.2.3. The Planning Officers report considers that the allocation of these spaces back to the residents would promote further car ownership, above the one space already allocated to them would only lead to further overspill onto the public roads. The

report also notes the requirements of the CDP which sets out the maximum car parking standards for Zone 2 as one space per dwelling. The Apartment Guidelines further set a default policy for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The report concludes that the development has sufficient car parking to accommodate the development and that the argument provided by the application to amend the cited condition is not convincing.

3.2.4. The Planning Officer recommends that permission for the reallocation of the car parking spaces as proposed be refused. This Planning Report formed the basis of the Planning Authority's decision to refuse permission.

3.2.5. **Other Technical Reports**

None.

3.2.6. **Prescribed Bodies**

None.

3.2.7. **Third Party Submissions**

None.

4.0 **Planning History**

The following is the relevant planning history pertaining to the subject site:

PA ref: 2517/20: Permission sought for the retention of 6 no. car parking spaces and planning permission for 1 no. additional car parking space and associated site works.

DCC granted retention permission for 4 car parking spaces, located along the eastern boundary only, subject to the following conditions:

2. The development shall be amended as follows:
 - a) The proposed parking space adjacent to the southern boundary shall be omitted.

- b) The two parking spaces adjacent to Block C (proposed to be retained) shall be removed and the grounds reinstated and markings removed, where applicable.
- c) Car parking space no.26, as shown on Drawing no. DR-A-31100, shall be provided as an accessible space and markings amended, where applicable.

Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the occupation of the buildings:

Reason: In the interests of orderly development and visual amenity.

- 3. This permission authorises the retention of four additional car parking spaces along the eastern boundary of the site only.

Reason: In the interests of clarity.

- 4. The developer shall comply with the following transportation planning requirements of the planning authority:
 - a) The four car parking spaces shall be permanently allocated and marked as visitor parking for the existing apartment development and shall not be sold, rented or otherwise sub-let or leased to other parties.
 - b) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.
 - c) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

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

PA ref: 3167/16: Permission granted for a change of use to residential within an approved development of 25 apartments with 26 spaces. The amendment will provide a 26th apartment and 26 car parking spaces.

Condition 6 of this permission states as follows:

One designated parking space shall be assigned to each residential unit

Reason: In order to provide a satisfactory standard of development.

ABP re: PL29S.235671 (PA ref: 4049/09): Permission was sought for the construction of 29 apartments in four blocks, 33 car parking spaces and 29 bicycle spaces on the site. The Board granted permission for the construction of 25 apartments and 31 car parking spaces. I note that during the process of complying with conditions, the number of car parking spaces was reduced to 26.

5.0 Policy and Context

5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

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

5.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):

- 5.2.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments. The guidelines state that car parking standards need to be set at realistic levels, having regard, *inter alia*, to proximity to public transport.
- 5.2.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable

patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

5.3. Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, (DoHPLG, 2020):

- 5.3.1. These statutory guidelines update and revise the 2015 Sustainable Urban Housing: Design Standards for New Apartments Guidelines, and the 2018 Guidelines in relation to Shared Accommodation schemes. The objective is to build on the content of the 2015 apartment guidance and to update previous guidance in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines. Aspects of previous apartment guidance have been amended and new areas addressed in order to, amongst other areas, remove requirements for car-parking in certain circumstances where there are better mobility solutions and to reduce costs.
- 5.3.2. Chapter 4 deals with communal facilities, including car parking, and provides that 'the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria.

5.4. Development Plan

- 5.4.1. The Dublin City Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. The site is zoned Z1 – Sustainable Residential Neighbourhood where it is the stated objective of the zoning 'To protect, provide and improve residential amenities.' The site is also noted as being located within the River Dodder Conservation Area.
- 5.4.2. Chapter 16 of the Plan deals with Development Standards and section 16.38 deals with Car Parking Standards. The subject site is located within Parking Zone 2 where Table 16.1 of the CDP indicates that the maximum car parking provision in such

zones is 1 space per dwelling. The Plan, further states that 'Car parking provision in Zones 1 and 2 is restricted on account of the proximity of these locations to public transport. An increased density of development will be promoted in Zone 1 and those parts of Zone 2 where development is in close proximity to good transportation links.'

- 5.4.3. In addition, the Plan states 'Where a potential development site falls on the boundary of two or more parking zones, it is at the discretion of the planning authority to decide the appropriate level of car parking to serve the development having regard to the location of the site and its accessibility to existing and proposed public transport facilities.' Any exceedance of the maximum standards provided for in Table 16.1 'shall only be permitted in exceptional circumstances e.g. boundary areas, or where necessary for the sustainable development of a regeneration area.'

5.5. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which are located approximately 1.6km to the east of the site.

5.6. EIA Screening

- 5.6.1. The subject appeal does not relate to a class of development which requires mandatory EIA.
- 5.6.2. Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) sets out the class of developments which provide that mandatory EIA is required. The proposed development is not of a scale or nature which would trigger the need for a statutory EIAR. It is therefore considered that the development does not fall within any cited class of development in the P&D Regulations and does not require mandatory EIA.
- 5.6.3. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in

Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.6.4. Having regard to:

- (a) the nature and scale of the development, and
- (b) the location of the development, although close to, but outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that 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

This is a first-party appeal against the decision of the Planning Authority to refuse planning permission for the proposed re-allocation of the car parking spaces. The issues raised are summarised as follows:

- The reasonableness of refusing permission for contravening a condition.
 - The proposed development is not an application for new or additional parking.
 - The parking has been permitted by the Board and has been constructed within the gated development.
 - The provisions of the CDP do not apply as if the application was for new parking spaces.
 - The reason for refusal must identify why it is contrary to proper planning and sustainable development.
- Application of car parking standards for car parking Zone 2.

- No additional spaces are proposed and if a resident or visitor park in the spaces, they remain parking spaces.
- The proposed development is for larger family size residential units and is not a centrally located build to rent, one bedroom scheme.
- It is the case that seniors and larger families rely on cars as well as public transport.
- Many residents also rely on vehicles as part of their employment.
- The total number of units is 26 apartments and if permission is granted it would provide for just 1.15 spaces per unit.
- The site is only c150-200m from the boundary of Zone 3 where there is a greater level of parking provision per residential unit permitted.
- This area suffers from the on-street parking associated with the RDS.
- A parking ratio exceeding 1 space per unit was considered acceptable for the site under ABP ref. PL29S.235671, with a reduced ratio of 1 space per unit through compliance submissions and reg ref. 3167/16.
- It is reasonable to consider that 4 spaces could be reallocated from visitor to specific residences within the complex given the size of the units and number of bedrooms in the scheme.
- It is not possible for visitors to the scheme to drive into the parking spaces without someone providing access to them.
- It is considered appropriate to reallocate the parking spaces from visitor to specific allocated spaces for residents.
- Reallocation of visitor parking would not be injurious to the amenities of the residential development.
 - The parking spaces are in situ and will be used, therefore the user of the space is incidental.
 - There is no particular demand for 4 visitor spaces for the 26 apartments.
 - It may be considered that the reallocation of the visitor parking will ensure a more managed parking regime.

- The occupants who do not have an on-site space will find on-street parking at a distance from their home.
- There are no scheduled urban bus services currently in operation along Anglesea Road, therefore residents are at a disadvantage in accessing public transport.
- The nearest bus stop is on Merrion Road 550-600m from the development in Ballsbridge and 850-900m to the bus stop on the Stillorgan Road. The nearest DART Station at Sandymount is 1.1km from the development.
- The proposed reallocation of existing parking spaces is not contrary to the Z1 zoning objective of the site.
 - The linking of the injury of residential amenity to be contrary to the Z1 zoning objective fails to assess that the parking spaces are already in situ.
 - The quantum of c1.15 parking space per unit is de minimis and it is submitted that the residential amenity of the larger 3 bedroom family sized apartments would be compromised by restrained car storage options, contrary to the council's objective of providing car storage options.
- Failure to comply with the Development Management Guidelines.
 - The refusal does not consider that these are existing parking spaces, the quantum of visitor parking against the low number of apartments, the family size nature of the units and the location with limited off-street parking for the occupants.
 - The refusal does not say why the very minor increase in the development plan standard would be contrary to the proper planning and sustainable development of the area or that the parking already exists.
 - There is no significant breach of specific objectives/policies in the plan and the reasonableness test required in the Development Management Guidelines of the reason for refusal has not been met.

It is requested that the appeal be upheld and that the Board grant the proposal to reallocate 4 visitor spaces to apartments within the development.

6.2. Planning Authority Response

None.

6.3. Observations

None.

7.0 Assessment

- 7.1.1. I have undertaken a site visit and have had regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development on and in the immediate vicinity of the site.
- 7.1.2. The Board will note that permission was granted for the retention of the 4 parking spaces the subject of this appeal under PA ref: 2517/20, whereby the inclusion of condition 4(a) required that the four car parking spaces, the subject of this first-party appeal, be permanently allocated and marked as visitor parking for the existing apartment development and shall not be sold, rented or otherwise sub-let or leased to other parties. This appeal seeks to reassign the use of these spaces for use by residents.
- 7.1.3. I note the arguments made by the applicant in relation to the current appeal. It is submitted that the proposed reallocation of the parking spaces will not significantly exceed the Development Plan requirements and will not be injurious to the residential amenities of the development. It is further submitted that the reason for refusal does not meet the reasonableness test as required by the Development Management Guidelines, noting that the parking spaces exist and that the proposal is not for the provision of any further spaces. Further arguments are made in terms of the proximity of the site to Parking Zone 3 and it is submitted that the residents are at a disadvantage due to the distance to public transport services.
- 7.1.4. The permitted apartment scheme at Dunluce, includes family sized units and the applicant submits that that the reallocation of the visitor parking will ensure a more managed parking regime for the development. It is submitted that a grant of permission for the reallocation of the 4 parking spaces will reduce the risk of

residents taking advantage of the visitor parking spaces and that as the parking spaces are already permitted and present on the site, the use of the spaces by residents rather than visitors will not result in any intensification or enhancement of use. The reference to the fact that a number of residents also require a vehicle for their work suggests that the demand for resident parking exceeds the number of spaces assigned for such use within the development site.

7.1.5. While I note the proximity of the site to the Parking Zone 3, as indicated by the appellant, the site is clearly located within Parking Zone 2 where the Dublin City Development Plan assigns the maximum of 1 parking space per unit. I also note the appellants arguments that as there are no scheduled urban bus services currently in operation along Anglesea Road, residents are at a disadvantage in accessing public transport. The appellant further submits that the nearest bus stop is on Merrion Road 550-600m from the development in Ballsbridge and 850-900m to the bus stop on the Stillorgan Road. The nearest DART Station at Sandymount is 1.1km from the development.

7.1.6. I would not accept that the above distances are excessive for the purposes of access to public transport. In addition, I would argue that the change of use of the parking spaces from visitor to resident parking, would remove the flexibility of the use of the spaces within the apartment scheme, to the disadvantage of all residents and their guests. I further note the policies of Dublin City Council and in particular, Policy MT17, which states as follows:

To provide for sustainable levels of car parking and car storage in residential schemes in accordance with development plan car parking standards (section 16.38) so as to promote city centre living and reduce the requirement for car parking.

7.1.7. In addition to the above, the Development Standards in the Plan states that 'apartment parking spaces are mainly to provide for car storage to support family friendly living policies in the city and make apartments more attractive for all residents. It is not intended to promote the use of the car within the city.' In this regard, I consider that the proposed reallocation of parking spaces for resident use as sought, would run contrary to the spirit of national policy, which seeks to minimise

car parking and promote the use of sustainable transport modes, as well as the requirements of the Dublin City Development Plan.

- 7.1.8. Having regard to the planning history of the site, I would accept that the principle of the retention of the parking spaces for visitor use is reasonable, particularly given that the Dunluce apartment development is gated. I therefore consider that the inclusion of the condition in the previous grant of planning permission at the site as it relates to the use of car parking spaces is both appropriate and reasonable, as it seeks to ensure that adequate on-site parking is available within the development for all residents and their guests, rather than reassigning the 4 spaces to potentially just 4 individual units. A grant of planning permission in this instance, therefore, would materially contravene a condition attached to a previous grant of planning permission which is considered to be both appropriate and reasonable, as well as being compliant with national and local policy as it relates to car parking provision.

7.2. Appropriate Assessment

- 7.2.1. The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which are located approximately 1.6km to the east of the site.
- 7.2.2. Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the 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

I recommend that planning permission be refused for the proposed development for the following stated reason.

9.0 Reasons and Considerations

The proposed development, being the reallocation of four visitor parking spaces to resident parking spaces within the Dunluce development, would materially contravene a condition attached to a previous grant of planning permission, Condition 4(a) of PA. Ref. 2517/20 refers, a condition which is considered both reasonable and appropriate. The loss of the dedicated visitor car parking within the development would be injurious to the residential amenities of the majority of home-owners within the scheme as well as their visitors and would therefore, be contrary to the provisions of the Z1 zoning objective afforded to the site which seeks 'to protect, provide and improve residential amenities'. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

A. Considine

Planning Inspector

01st December 2021