



An
Bord
Pleanála

Inspector's Report

ABP-312065-21

Development

Construction of a 4-storey apartment building containing 14 apartments with balconies, access to be provided from existing vehicular and pedestrian entrance from Leixlip Road (R835) and from proposed new vehicular and pedestrian access from Ardeevin Drive and associated site works.

Location

Ball Alley House (Protected Structure),
Leixlip Road, Lucan, Co. Dublin

Planning Authority

South Dublin County Council

Planning Authority Reg. Ref.

SD21A/0179

Applicant(s)

Gerry Teague

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First

Appellant(s)

Gerry Teague

Observer(s)

Diarmuid Fitzgerald
David and Mary Whittle

Patricia Garland
Sinead Murphy and Derek Potter
Joan Sweeney
Bernard McCann
Maria Fitzgerald and Others
Eilene Tucker
Ardeevin Residents Association

Date of Site Inspection

27th July 2022

Inspector

Ian Boyle

1.0 Site Location and Description

- 1.1. The appeal site has an address at Ball Alley House, Lower Main Street, Lucan, Co. Dublin, K78 X5A0. It is situated in Lucan town centre on the southern side of the Leixlip Road (R835), which is a two-way regional route.
- 1.2. The front (north) part of the property accommodates a Protected Structure called 'Ball Alley House', which accommodates an existing public house and lounge. The building is a detached eight-bay two-storey structure dating from the mid-1800's. It has rendered and painted walls and the windows are timber sash with square-headed openings. The roof is pitched and has slate coverings. There are four rendered chimneys, which are spaced out evenly. The building itself is setback from the road and there is surface car parking available in front of the building. The rear part of the property is used as a car park, and this comprises most of the subject site.
- 1.3. The Lucan Demense is on the north side of the road, opposite the subject site, and further north again is the River Liffey. To the east of the site is a medical centre and apartments and associated surface car parking. There is a low-lying stone wall with a metal fence running along on the north part of the shared boundary. The southern part of this shared boundary has a tall concrete wall and mature planting. To the south of the site is Ardeevin Drive, which is a quiet residential street with mainly low-lying detached houses. To the west of the site are two residential properties, which are No. 1 Lucan Lodge (K78 P2F7) and No. 21 Ardeevin Drive (K78 Y6P4).
- 1.4. As stated, the site is in the centre of Lucan and within walking distance to many of the services and facilities available in the town. There are two bus stops opposite the site to the north, which are served by frequent bus services in each direction, including several eastbound routes that travel towards Dublin city centre. The site is within 400m of accessing the N4 National Primary Road, which is to the southwest, via Tandy's Lane.
- 1.5. The area is mainly characterised by residential housing, including 1½ storey dormer style dwellings on relatively spacious plots.
- 1.6. The site has a stated area of 0.17ha, approximately.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a 4-storey apartment development, removal of an existing car park (52 no. car parking spaces) and associated site works.
- 2.2. The development includes 14 no. apartments; including 1 no. one-bedroom unit, 11 no. two-bedroom units and 2 no. three-bedroom units; the partial removal of a hedgerow, private open space in the form of balconies; landscaping; bicycle store; bin storage; signage; and with access to be provided from the existing vehicular and pedestrian entrance from the Leixlip Road (R835) (north) and a new vehicular and pedestrian entrance from Ardeevin Drive (south).
- 2.3. The Planning Authority requested further information on 25th August 2021, including details regarding the following:
 - recommended a redesign of the proposed development due to its height, scale and massing and potential overbearing impact on residential developments to the west and east (Item 1),
 - insufficient number of dual aspect units and that a two-bedroom apartment was below the minimum standards (Item 2),
 - that the minimum amount of public open space should be clearly shown (Item 3),
 - completion of a shadow analysis (Item 4),
 - completion of an Urban Design Statement and demonstrated compliance with SPPR 3 (Minimum Floor Areas) of the 'Apartment Guidelines' (Item 5),
 - that a revised proposal should be discussed with Council's Architectural Conservation Officer prior to submission of further information to mitigate impacts on the Protected Structure (Item 6),
 - provision of a Tree Survey, Arboricultural Impact Assessment and Tree Protection Plan (Item 7),
 - repositioning of a proposed watermain which was proposed to be directly over an existing attention system (Item 8),

- procurement of a Confirmation of Feasibility (CoF) from Irish Water to determine feasibility of connection to public infrastructure for water and foul drainage (Item 9),
- completion of a cross sectional drawing showing details of proposed SuDS measures and incorporation of further SuDS proposals (Items 10 and 11),
- details of a visibility splay for the proposed site entrance onto R835 (Item 12),
- completion of a drawing showing proposed road infrastructure, markings, parking spaces, footpaths, etc. (Item 13), and
- drawing deficiencies to be addressed in relation to misaligned drawing legend, missing detail / dimensions for contiguous elevations (Item 14).

2.4. The Applicant responded with further information on 7th October 2021.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority refused permission on 4th November 2021 stating 7 no. reasons for refusal, including:

1. Having regard to the overall height, scale and massing of the proposed development, in close proximity to existing low-rise residential properties and located within the curtilage of a Protected Structure (Ref 094 Ball Alley House) the proposed 4-storey apartment block would lead to significant overbearing, affect the residential amenity of the existing dwellings and of the established residential character and visual setting of the area, and would be excessively dominant and fail to be sympathetic to the scale or architectural interest of the Protected Structure. The proposed development would therefore impact on the integrity of the Protected Structure and contravene Policies HCL3-2 and HCL5-4 of the South Dublin County Development Plan 2016 - 2022 ('Development Plan').
2. The proposed development provides insufficient details regarding car parking, access, sightlines, lacks useable public open space and relies on heavy-engineering solutions to manage surface water drainage. The proposed

building, located within curtilage of a Protected Structure would constitute overdevelopment of the site resulting in a substandard form of development which would seriously injure the residential amenities its future occupants, the existing residents in proximity to the site, and would seriously injure the amenity afforded by the Protected Structure.

3. The proposed development would result in onsite parking and a vehicular entrance off the R835, which would endanger public safety by reason of traffic hazard.
4. The proposed development would adversely impact the setting of the Protected Structure by way of the cramped location and excessive height of the proposed development and be contrary to Policy 3 'Protected Structures' and Objectives HCL3-1 and HCL3-2 of the Development Plan.
5. The proposed arrangements for service and emergency vehicles would endanger public safety by reason of a traffic hazard (inadequate space for a rigid refuse lorry at Ardeevin Drive and turning movements illustrated within the proposed development for fire tender vehicle would require multiple movements).
6. The proposed development have a substandard level of residential amenity for future occupants by reason of the configuration of the proposed open space, accessibility to active play areas and removal of existing trees. It appears that the development requires the removal of street trees in South Dublin County Council's ownership, where no agreement has been submitted. Furthermore, a Tree Survey, Arboricultural Impact Assessment and Tree Protection Plan have not been provided.
7. The proposed development has not explored the full potential for inclusion of natural drainage/SUDS features within the design, which is specifically unsatisfactory given the proposed loss of trees and vegetation and the location of the site within the curtilage of a Protected Structure.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- A cover letter submitted as part of further information outlines that there are no proposed changes to the **height** of the building, despite this concern being raised by the Planning Authority in their Request for Further Information ('RFI').
- In terms of proposed **public open space**, the proposed slivers of grass, which appear incidental to the overall design, and not specifically designed for function and use, are deemed inappropriate. These slivers of space indicate that the proposed development is overdevelopment of the site.
- The submitted **shadow analysis** indicates that overshadowing caused by the proposed development would mostly impact on the site itself, with some shadowing impacts on adjacent properties, including that of the rear garden of No. 21 Ardeevin Drive (March 21st and September 21st predominantly). This is considered acceptable.
- The **Urban Design Statement** is deficient as it does not cover the 12 principles of urban design, which would have helped to inform the overall design for developing the site. The Applicant has not sufficiently modified the proposed development sufficiently as part of further information to warrant a grant of permission.
- There is a significant **shortfall of accessible play areas, lack of SuDS and the removal of trees** in an established area at a Protected Structure would have a severe impact on the visual and residential amenity of the area. The proposed development should be refused on parks and landscaping grounds.
- The 3m separation between **surface water attenuation and water mains** is acceptable.
- The Applicant's further information, including site layout plan, does not include a sufficient **visibility splay**.
- The Applicant's further information does not provide sufficient information regarding **car parking and access**. In addition, some form of cut and fill would be required as the proposed block of apartments would be set below the

road level of Ardeevin Drive. However, this is not clearly demonstrated in any of the cross-sections, or elevational drawings, and it is unclear how this would impact the parking arrangement, open space and footpath at the southern end of the site.

- In conclusion, due to the existing pattern of development in the vicinity, the proximity to the Protected Structure, the design, height, and layout of the proposed development, open space layout and tree removal, refuse collection arrangements and parking, and lack of SUDs features, a refusal decision is recommended.

3.2.2. Other Technical Reports

Water Services: No objection, subject to the Applicant submitting a cross sectional drawing showing details of all proposed SuDS features, such as green roofs, permeable paving, etc. and demonstrating compliance with standard drainage requirements / conditions.

Environmental Health Officer: Further information requested, including preparation of a noise impact assessment to assess the potential impact of environmental noise from traffic on the N4.

Roads: Initial report requested further information showing adequate sightlines and a visibility splay for access on to the R835, a layout drawing with cycling / pedestrian markings, a swept path analysis demonstrating that fire tenders and large refuse vehicles can safely access / egress the site from Ardeevin Drive, the number and location of car parking spaces proposed, details of bicycle parking and pedestrian routes. Upon receipt of further information, it was recommended that permission be refused on the basis that the Applicant had not demonstrated clear and unobstructed sightlines towards east from the proposed entrance on the R835, that there would be inadequate space for a rigid refuse lorry or fire tender vehicle to safely access the site from Ardeevin Drive (vehicle turning movements illustrated on swept path analysis would require multi-movements to turn such vehicles, which would endanger public safety by reason of a traffic hazard), no EV charging parking spaces proposed.

Parks and Public Realm: Initial report requested further information; including details regarding the proposed removal of street trees that are in Council ownership and

assessment of potential impacts on existing trees, hedgerows and local biodiversity, and preparation of a Tree Survey, Arboricultural Impact Assessment and Tree Protection Plan; a lack of SuDS measures, deficient public open space, and further details of proposed play space required. Upon receipt of further information, a grant of permission was recommended, subject to standard conditions regarding implementation of landscaping plan and that details of play space proposals be agreed with the Planning Authority.

3.3. Prescribed Bodies

Irish Water: Initial report requested further information; including that the Applicant should submit a Pre-Connection Enquiry (PCE) to Irish Water (IW) to determine if connections to the public water and wastewater systems are feasible. Upon receipt of further information, IW had no objection and recommended that standard conditions be attached to any grant of permission issuing.

An Taisce: Initial report objected to the application as the proposed 4 storey apartment building is considered too high and that it would overshadow and dwarf the Protected Structure. Second report (post review of further information) – still objected to the application as the height of the development has not been reduced and is still overbearing of the Protected Structure.

3.4. Third Party Observations

A number of third party submissions were received by the Planning Authority. The main issues raised are as follows:

- Increased footfall, vehicular traffic and parking demands in the area.
- Anti-social behaviour associated with the pub would affect quality of life for residents.
- Concerns regarding the proximity of the apartments, houses and adjacent boundary wall with other houses in the area.
- The proposed development would negatively impact the green area at the rear of the and pub and also impact on the heritage status of the building.

- The proposal would result in unacceptable overlooking of private open space areas associated with adjacent residential properties.
- The proposed design, height and scale of the development would be out of character with the adjoining buildings and result in a negative visual impact.
- Inconvenience caused during the construction phase.
- Devaluing of properties in the area.
- The proposed means of access for emergency vehicles would be deficient.
- The proposed density is not appropriate for this area and would constitute overdevelopment of the site.
- The removal of car parking would lead to traffic and parking issues in Lucan village centre.
- The housing should be directed to other areas instead, including Clonburris and Adamstown.
- Insufficient details provided in relation to the bin stores and plant associated with the development.
- Concerns in relation to safety for children playing in the area.
- The apartment would only be used for rental purposes.
- The site layout plan does not accurately depict the southern boundary of the site.
- No roads and parking assessment was submitted as part of the application.
- Impact on biodiversity and of wildlife
- The proposal does not adequately address previous reasons for refusal cited for other applications.

4.0 Planning History

Subject Site

Various permissions relating to physical changes to the Protected Structure north of the subject site. Not relevant to the assessment of the proposed development.

Surrounding Area

No. 1 Lucan Lodge, Leixlip Road, Lucan, Co. Dublin (directly west of appeal site)

ABP-306121-19 (Reg. Ref. SD19A/0297): An Bord Pleanála refused permission on 16th April 2020 for the for proposed demolition of an existing house, shed and portacabin at No. 1 Lucan Lodge, removal of hedging and modification of the northern boundary wall along Leixlip Road and the construction of 6 no. 2-bed apartments with associated site development works.

The reasons for refusal were that:

1. *‘That, by reason of its design, the proposed development of a three-storey apartment block would materially and adversely affect the character and setting of the adjoining ‘Ball Alley’ public house which is listed on the Record of Protected Structures and would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.’*
2. *‘Having regard to the prominent location of the site, to the established built form and character of the Leixlip Road, Lucan and to the existing buildings on the site which are considered to be of importance to the streetscape, it is considered that the proposed development, consisting of a three-storey apartment building, would be incongruous in terms of its design, which would be out of character with the streetscape and would set an undesirable precedent for future development in this area. The design is not considered to justify the demolition of the existing structures on the site. The proposed development would seriously injure the visual amenities of the area, would be contrary to the stated policy of the planning authority, as set out in the current Development Plan, in relation to urban development and would, therefore, be contrary to the proper planning and sustainable development of the area.’*

The Planning Authority previously refused permission on 12th November 2018, citing that the overall height, scale and massing of the proposed development would result in a significant overbearing impacts on the residential dwelling to the west, the proposed structure would appear excessively dominant and fail to be sympathetic to the scale or architectural interest of the nearby Protected Structure, insufficient

information provided in relation to surface water drainage and the proposed development would set an undesirable precedent for other similar developments.

5.0 Policy Context

5.1. South Dublin County Council Development Plan 2016-2022

5.1.1. Zoning

The subject site is zoned 'RES – Existing Residential' under the *South Dublin County Development Plan 2016-2022* ('Development Plan'), which seeks 'to protect and/or improve residential amenity'. Residential is listed as Permitted in Principle.

[Note: At the time of writing, the *Draft South Dublin County Development Plan 2022-2028* was due to come into effect by 3rd August 2022. The zoning for the site remains the same (i.e. 'RES – Existing Residential') and there are no material differences with the new Plan insofar as the subject development proposal is concerned.

5.1.2. Protected Structures

The building at the front (north) part of the site is a Protected Structure (RPS Ref 094 Ball Alley House). The building is also listed on the National Inventory of Architectural Heritage (NIAH Ref. 1120121) and is of regional importance.

The building to the east of the site, which is Ardfield House, at roughly 12m, is not a Protected Structure. However, it is listed on the NIAH under Ref. 11201022.

The building further east of the site, at approximately 150m, is a Protected Structure (RPS Ref.084 Gardenville, Primrose Lane). The structure is also listed on the NIAH (NIAH Ref. 11201024).

5.1.3. Housing Policy (Chapter 2)

- Section 2.2.0 relates to **Sustainable Neighbourhoods**, and includes:

Policy H8 Residential Densities

It is the policy of the Council to promote higher residential densities at appropriate locations and to ensure that the density of new residential development is appropriate to its location and surrounding context.

Policy H9 Residential Building Heights

It is the policy of the Council to support varied building heights across residential and mixed use areas in South Dublin County.

Policy H10 Mix of Dwelling Types

It is the policy of the Council to ensure that a wide variety of adaptable housing types, sizes and tenures are provided in the County in accordance with the provisions of the Interim South Dublin County Council Housing Strategy 2016-2022

- Section 2.3.0 relates to **quality of residential development**, and includes:

Policy H11 Residential Design and Layout

It is the policy of the Council to promote a high quality of design and layout in new residential development and to ensure a high quality living environment for residents, in terms of the standard of individual dwelling units and the overall layout and appearance of the development.

Policy H12 Public Open Space

It is the policy of the Council to ensure that all residential development is served by a clear hierarchy and network of high quality public open spaces that provides for active and passive recreation and enhances the visual character, identity and amenity of the area.

Policy H13 Private and Semi-Private Open Space

It is the policy of the Council to ensure that all dwellings have access to high quality private open space (incl. semi-private open space for duplex and apartment units) and that private open space is carefully integrated into the design of new residential developments.

Policy H14 Internal Residential Accommodation

It is the policy of the Council to ensure that all new housing provides a high standard of accommodation that is flexible and adaptable, to meet the long term needs of a variety of household types and sizes.

Policy H15 Privacy and Security

It is the policy of the Council to promote a high standard of privacy and security for existing and proposed dwellings through the design and layout of housing.

- Section 2.4.0 of the Development Plan relates to **residential consolidation - infill, backland, subdivision & corner sites**, and includes:

Policy H17 Objective 5

To ensure that new development in established areas does not impact negatively on the amenities or character of an area.¹

5.1.4. **Community Infrastructure and Open Space (Chapter 8)**

Section 8.7.4 'Delivery of Public Open Space and Contributions in Lieu'

5.1.5. **Heritage, Conservation & Landscapes (Chapter 9)**

Policy 3 Heritage, Conservation & Landscapes

It is the policy of the Council to conserve and protect buildings, structures and sites contained in the Record of Protected Structures and to carefully consider any proposals for development that would affect the special character or appearance of a Protected Structure including its historic curtilage, both directly and indirectly.

Policy HCL3, Objective 1

To ensure the protection of all structures (or parts of structures) and the immediate surroundings including the curtilage and attendant grounds of structures contained in the Record of Protected Structures.

Policy HCL3, Objective 2

To ensure that all development proposals that affect a Protected Structure and its setting including proposals to extend, alter or refurbish any Protected Structure are sympathetic to its special character and integrity and are appropriate in terms of architectural treatment, character, scale and form. All such proposals shall be

¹ Policy H13 Objective 5 is taken from the 'Draft South Dublin County Development Plan 2022-2028' and states that it is an objective 'to ensure that new development in established areas does not unduly impact on the amenities or character of an area.'

consistent with the Architectural Heritage Guidelines for Planning Authorities, DAHG (2011) including the principles of conservation.

Policy HCL5, Objective 4

To ensure that infill development is sympathetic to the architectural interest, character and visual amenity of the area.

5.1.6. Implementation (Chapter 11)

- Section 11.9.0 sets out **Development Management Thresholds**.

- Section 11.2.7 states that:

‘varied building heights are supported across residential areas, urban centres and regeneration zones in South Dublin County, subject to appropriate safeguards to protect the amenity of the area’, and

‘Proposals for higher buildings of over three storeys in residential areas should be accompanied by a site analysis (including character appraisal) and statement that addresses the impact of the development. The appropriate maximum or minimum height of any building will be determined by:

- *The prevailing building height in the surrounding area.*
- *The proximity of existing housing - new residential development that adjoins existing one and/or two storey housing (backs or sides onto or faces) shall be no more than two storeys in height, unless a separation distance of 35 metres or greater is achieved.*
- *The formation of a cohesive streetscape pattern – including height and scale of the proposed development in relation to width of the street, or area of open space.*
- *The proximity of any Protected Structures, Architectural Conservation Areas and/or other sensitive development.*

**5.2. Sustainable Urban Housing: Design Standards for New Apartments, 2020
(‘Apartment Guidelines’)**

- 5.2.1. The key development standards for apartment units in the context of this appeal case are summarised below:

- **Overall floor area:** 1-bedroom unit – 45sqm; 2-bedroom/4-person unit – 73sqm; 3-bedroom – 90sqm; The majority of the units shall exceed the minimum floor area standards by 10%.
- **Unit Mix:** Max. 50% 1-bedroom units, with no requirement for 3-bedroom units.
- **Storage space:** 1-bedroom unit – 3sqm; 2-bedroom/4-person unit – 6sqm; 3-bedroom unit – 9sqm; Storage for bulky items should also be provided outside individual apartment units.
- **Dual Aspect Ratio:** Minimum 50% dual aspect units and ideally all 3-bedroom units should be dual aspect; where single aspect apartments are provided, the number of south facing units should be maximised, with east and west facing units also acceptable. For urban infill schemes on sites up to 0.25 ha, Planning Authorities may exercise discretion to consider a dual aspect ratio below a minimum of 33%, subject to the achievement of overall high design quality.
- **Floor to Ceiling Height:** Min. of 2.4 m required, but 2.7 m encouraged.
- **Lift and Stair Cores;** Max. of 12 apartments per floor per core.
- **Private amenity space:** 1-bedroom unit – 5sqm, 2-bedroom/4-person unit – 7sqm; 3-bedroom – 9sqm.
- **Communal amenity space:** 1-bedroom unit – 5sqm, 2-bedroom/4-person unit – 7sqm, 3-bedroom unit – 9sqm.
- **Public open space:** No requirement identified under the Guidelines. Section 11.3.1(iii) of the Development Plan requires 10% of the site area to be provided as public open space.
- **Bicycle parking:** 1 cycle storage space per bedroom, with visitor parking required at a rate of 1 space per residential unit.
- **Car parking:** Table 11.24 of the Development Plan provides maximum car parking rates for residential development. The appeal site is in Zone 2, which requires 0.75 spaces for a 1-bedroom apartment, 1 space for a 2-bedroom apartment and 1.25 spaces for 3-bedroom+ apartments.

5.3. **Project Ireland 2040: National Planning Framework, 2018**

- 5.3.1. The NPF sets out objectives which aim to secure more compact and sustainable growth patterns in urban areas in the period to 2040.
- 5.3.2. National Policy Objective 3b seeks to deliver at least 50% of all new homes targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

5.4. **Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 ('RSES')**

- 5.4.1. The purpose of the RSES is to support the implementation of the NPF by providing a long-term strategic planning and economic framework for the development of the region to 2031, including the promotion of compact growth and urban regeneration and sustainable settlement patterns. The RSES sets out a number of Regional Policy Objectives (RPO), with the following considered most relevant to the assessment of this appeal case:

- **RPO 3.2:** Local authorities, in their core strategies shall set out measures to achieve compact urban development targets of at least 50% of all new homes within or contiguous to the built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
- **RPO: 3.3:** Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill and brownfield regeneration sites in line with the Guiding Principles set out in the RSES and to provide for increased densities as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing; Design Standards for New Apartments Guidelines' and the 'Urban Development and Building Heights Guidelines for Planning Authorities'.
- **RPO 4.3:** Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future

development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

5.5. Other National and Regional Planning Policy

- *Design Manual for Urban Roads and Streets, 2019 ('DMURS')*
- *Urban Development and Building Heights Guidelines for Planning Authorities, 2018*
- *BRE Guide: Site Layout Planning for Sunlight and Daylight, 2011*
- *Architectural Heritage Guidelines for Planning Authorities, DAHG (2011)*
- *Urban Design Manual: A Best Practice Guide, 2009*
- *Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, 2009*
- *Quality Housing for Sustainable Communities – Best Practice Guidelines, 2007*

5.6. Natural Heritage Designations

No natural designations apply to the subject site.

The River Liffey - Natural Heritage Area (site code: 000128) is roughly 135m to the northwest of the site.

5.7. EIA Screening

- 5.7.1. Having regard to the nature and scale of the proposed development, comprising 14 no. residential units and ancillary site works in an established urban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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 First Party Appeal has been made by CDP Architecture on behalf of the Applicant. The main grounds of appeal can be summarised as follows:

- The proposal is in keeping with national development policy to achieve higher residential densities and a more compact urban form.
- Section 11.2.7 'Building Height' of the Development Plan supports varied building heights in this area.
- Permission was granted for a similar development proximate to the appeal site in 1998, called The Orchard, which consists of 118 no. units and is a 3-storey pitched roof apartment development.
- The distances between the existing built form of The Orchard to Protected Structures (Ardfield House RPS Ref. 11201022) and Gardenville, Primrose (RPS Ref. 84) is less than that which would be between the subject development proposal and Ball Alley House, also a Protected Structure. From this comparison, it is evident that there are no issues regarding separation distances between the proposed development and Ball Alley House and that there are no real concerns of visual impact and overbearance.
- The proposal is for a 4-storey flat roof apartment building with a setback at third floor level. This is in keeping with the prevailing building height of the area, which ranges from 1 storey low-rise to 3-storey pitched roof residential apartments (The Orchard). Therefore, the proposed development comprises a gradual change in building height for the area only and is consistent with the Development Plan policy on new housing development.
- The proposed development is setback 35m from the original rear building line of Ball Alley House. It has also been designed to mitigate against any direct or perceived overlooking. Furthermore, a detailed shadow analysis illustrates that the proposed development would have minimal impact with regards to overshadowing adjacent properties.

- The proposed car parking provision is in accordance with Table 11.24 of the Development Plan. The Planner's Report confirms that the number of car parking spaces proposed is sufficient, despite the reason for refusal stating otherwise.
- The public open space (POS) accounts for 29% of the overall site and is above the minimum requirements as per Section 11.3.1 'Residential Quality' of the Development Plan. The locations of the POS to the front and rear of the site is private and secure. The site is also close to parks and other public green areas.
- The sightlines have been designed in accordance with DMURS.
- The existing surface car park has 58 no. spaces, which are being used for visitors to Lucan village / town centre (not customers of Ball Alley House). Therefore, the proposed development would pose less of a hazard.
- The proposal is for a contemporary design and the design palette seeks to use simple high-quality materials. The Planner's Report states that the use of light-coloured brick and cladding would help reduce the visual impact on the adjacent Protected Structure, which is welcomed.
- A swept path analysis (Autotrack) demonstrates that fire tender and large refuse vehicles can access/egress from both Ardeevin Drive (south) and the Leixlip Road (north). Furthermore, the Council's claim that access through Ardeevin Drive is totally dependent on a clear path is unfounded as Ardeevin Drive is 6m wide and accommodates car parking bays off the road.
- The southeast section of the site accommodates a play area, which is considered appropriate given it would be overlooked by future residents and is beside a secure cul-de-sac (Ardeevin Drive), which is away from traffic.
- The Applicant provided a Tree Survey, Arboricultural Impact Assessment and Tree Protection Plan as part of further information. The Council is not correct to say this information was not provided.
- The Applicant's ownership extends to the road edge of Ardeevin Drive and the street trees referenced in the Council's decision are within the Applicant's control. This issue could have been addressed by way of condition and is not sufficient reason for refusal.

- The proposed attenuation onsite comprises permeable paving and tree pits, which are acceptable SuDS measures and would significantly reduce runoff from the existing hard surface. The previous design did not include tree pits connecting to the proposed stormwater network. However, this has been revised as part of revised drawings submitted with the appeal and would serve to improve surface water and four drainage via enhanced SuDS measures.

6.2. Planning Authority Response

- The Planning Authority confirms its decision. The issues raised in the appeal have been covered in the Planner's Report.

6.3. Observations

A number of observations were received. These are similar to the objections/ observations submitted against the original application to the Planning Authority. The observations are made by residents in the surrounding area, including those who at Ardeevin Drive.

In summary, the main concerns are:

- Proposed development is inconsistent with the zoning objective for the site as it would neither protect or improve the residential amenity of adjacent homes.
- The Applicant highlights grants of permission from 1998 and 1999 (The Orchard) in an attempt to justify the proposed development (Pages 6-10). Separation distances are referenced, and it is stated that as The Orchard apartment development was permitted, so too should the current proposal. However, the nearest and most affected properties – those on Ardeevin Drive – are completely ignored and no attempt has been made to address the fundamental concerns of how the proposed development would affect residents on Ardeevin Drive.
- Negative impact on the character of the surrounding area and on the nearby Protected Structure (Ball Alley House).
- Excessive density and overdevelopment of the site, which is out of character with the receiving environment.

- Overbearance due to the four storey height of the proposed development on surrounding properties.
- Inconsistencies in the Shadow Analysis, no assessment completed of the 'BRE Guide: Site layout Planning for Sunlight and Daylight, 2011' and no assessment of the impact of the proposed development on the quantum, or quality, of light on windows of adjacent properties.
- The Applicant accepts that the vehicular access from the Leixlip Road is a traffic hazard in both its current and proposed forms and fails to address this as part of the proposed design.
- Insufficient detail in relation to surface water run-off and lack of SuDS measures.
- The swept path analysis shows that the accessing and turning of large vehicles / HGVs to enter the site via Ardeevin Drive is reliant on no vehicles being parked on the street and oversailing manoeuvres over the footpath and by using dwelling entrances facing out onto the road (i.e. encroaching onto private properties).
- The issue of removing street trees should be a straightforward issue of the Applicant providing land registry or registry of deeds details, which they have not done.
- The Applicant does not own the area of land upon which the street trees are located.
- Applicant has selected positive parts of the Planner's Report in their appeal, taken these out of context and ignored the substantive points made.
- Negative impacts on biodiversity and wildlife.
- The proposed development, if permitted, would set an undesirable precedent for the area.

7.0 Assessment

The main planning considerations relevant to this appeal case are:

- Zoning
- Design, Layout and Protected Structure
- Residential and Visual Amenity
- Traffic and Access
- Other Issues
- Overlooking, Daylight and Sunlight – New Issue
- Appropriate Assessment

7.1. Zoning

- 7.1.1. The subject site is zoned 'RES – Existing Residential' under the *South Dublin County Development Plan 2016-2022* ('Development Plan'). The zoning objective is to protect and /or improve residential amenity. Residential land uses are permitted in principle in this zone.
- 7.1.2. The site can be described as a backland / urban infill site, but which has development constraints, including its proximity to abutting residential properties, the presence of a Protected Structure at the front (north) part of the property and site access issues. There are a number of local policies and objectives with the Development Plan which generally support more compact forms of residential development on such urban sites. This is consistent with national and regional planning policy documents, including the National Planning Framework (2018) (NPF) and Regional Spatial and Economic Strategy for the Eastern and Midland Region (2019) (RSES).
- 7.1.3. In my opinion, the development proposed would be consistent with the general aims of urban consolidation, as set out in Policies H8 and H9 of the Development Plan, which promote higher residential densities at appropriate locations and support varied building heights across residential areas in the County. However, this is

subject to meeting the appropriate safeguards and standards identified in Section 11 'Implementation' of the Plan.

- 7.1.4. In relation to the residential density, specifically, I note that the proposed scheme comprises 14 units on a site of 0.17ha, approximately. This provides a residential density of roughly 82 units per hectare. I consider this to be an acceptable density, having regard to the Sustainable Residential Developments in Urban Areas - Guidelines for Planning Authorities (2009), which recommends that in order to maximise town centre population growth, there should, in principle, be no upper limit on the number of dwellings that may be provided within any town or city centre site, subject to safeguards. Therefore, I consider the principle of the proposed development on the appeal site acceptable, subject to compliance with the principles of proper planning and sustainable development and adherence to the applicable development management standards.

7.2. Design, Layout and Protected Structure

- 7.2.1. The appeal site is to the rear of the Ball Alley House, Lower Main Street, Lucan, Co. Dublin, K78 X5A0. It is accessed from the north by the Leixlip Road (R835) and there is residential housing to the east, south and west.
- 7.2.2. The proposal is a four-storey rectangular shaped building with a setback at third floor level. The building would have an overall ridge height of 12.7m and a flat roof. It adopts an attractive, contemporary design and seeks to utilise a combination of a cream brick finish with a light grey mortar on the main building façade and side elevations with a soft gold metal cladding at the stepped back fourth floor level.
- 7.2.3. The proposed development, in my opinion, incorporates high quality materials and finishes and the scheme architect has sought to reduce the visual impact on the adjacent Protected Structure through a considered design approach. The proposed fenestration arrangement is relatively uniform and omits any elaborate designs or features, which is also positive, in my view.
- 7.2.4. The Planning Authority's reasons for refusal make several references to the negative impact that the proposed development would have on the integrity of the Protected Structure and that the new apartment block would adversely impact the setting and

curtilage of Ball Alley House by way of its location and excessive height (Reason Nos. 1, 2, 4 and 7).

- 7.2.5. The Planner's Report also references various objectives from the Development Plan, which seek to ensure that development proposals are sympathetic and appropriate in terms of their architectural treatment, character, scale and form in relation to nearby Protected Structures and/or their setting and that new infill development should be sympathetic to the architectural interest, character and visual amenity of the area (Policies HCL3-1, HCL3-2 and HCL5-4).
- 7.2.6. Ball Alley House occupies the front part of the site and has an overall height of 6.3m to top of parapet. I note that the proposed development is setback towards the rear (south) part of the site, approximately 35m from the original rear building line of the Protected Structure, and roughly 30m from the nearest later-addition extension that protrudes southwards from the building's eastern side.
- 7.2.7. As the apartment block would have an overall height of 12.7m and be positioned deep within the site I do not consider that the proposed development would be excessively visible, or that it would have a significant overbearing impact, when viewed from the north or along this section of the R835. Direct views of the north (front) elevation of the development would be possible through the existing driveway / access into the site. However, most other views along this stretch of the Leixlip Road would be limited and likely only possible from certain locations.
- 7.2.8. The rear part of the Protected Structure has been subject to a series of physical changes and alterations over the years – some quite significant – including new building extensions, an outdoor terrace area associated with the existing public house use (i.e., a 'beer garden'), a low-lying concrete wall and railing (to enclose the terrace), car parking bollards, lighting fixtures, awnings, security equipment, etc. In my opinion, much of the character of the Protected Structure when viewed from within the site has therefore been eroded and it is apparent that the architectural quality and historic fabric for the rear part of the building has been diminished as a result.
- 7.2.9. In relation to the proposed car parking, I note that the appeal site is already used for this purpose. In fact, most of the property currently functions as a surface car park that is used by members of the public visiting Lucan town centre and its surrounds.

In my opinion, the presence of a new car park associated with the proposed development, which is smaller in size, with less car parking bays, and which has the benefit of landscaping, would not result in any greater or adverse impacts being incurred by the Protected Structure.

- 7.2.10. In summary, the Applicant has sought to achieve a design that integrates the proposal appropriately with the Protected Structure that is north of the site, and I consider that they have done this successfully. I consider that the architectural treatment, character, scale and form of the development proposed would be sympathetic to the special character and integrity of Ball Alley House and that it would not physically dominate the streetscape along this particular interface, which is the Leixlip Road.
- 7.2.11. However, the development proposed would be a very significant intervention when viewed from along Ardeevin Drive, particularly in terms of its size, scale, bulk and massing. In my opinion, the development would be a major departure from the existing residential character of the street. I consider that such a development, were to proceed in its current form, would be physically imposing, domineering and overly dominant in a visual sense. This is mainly due to the presence and proximity of the low-lying houses along Ardeevin Drive, including that of Nos. 21 and 23 Ardeevin Drive, which directly west and east, respectively, but also that of other dwellings on the street.
- 7.2.12. The proposed removal of the mature and established landscape buffer / street trees along the site's southern boundary would exacerbate the potential for visual impact as this would have the effect of visually and physically 'opening up' the site. The reference image (No. 8) of the Applicant's Urban Design Statement, submitted as part of further information, provides a useful illustration of how the juxtaposition of the proposed development might appear next to existing houses on the street. In my opinion, the new development would be jarring, incongruous and wholly inappropriate in this particular context, which comprises a narrow residential cul-de-sac with low density and low-lying housing.
- 7.2.13. I consider that the proposed height of the apartment complex at four storeys, where the prevailing building height in this area is mainly 1½ storeys, would be excessive,

particularly as the building would be marginally setback only, roughly 5.1m and 6m from its western and eastern boundaries, respectively.

- 7.2.14. Furthermore, I have reviewed the Urban Design Statement submitted by the Applicant as further information. The statement includes a brief response against the 12 criteria of the Urban Design Manual: A Best Practice Guide, 2009. The report, like the written Appeal document, includes references to the existing apartment scheme that is situated east of the appeal site (The Orchard), and uses this as a backdrop to try and justify the height, scale and size of the development proposed.
- 7.2.15. The Urban Design Statement also includes a lengthy list of policies and objectives from the County Development Plan without adequately describing how the proposed development complies with same. It does not set out a detailed assessment, or reasoned design rationale, of how or why the proposed development is appropriate in the context of Ardeevin Drive, and nor does it describe any particular measures or design methodology that might have been employed to reduce potential impacts on these properties.
- 7.2.16. I note that Section 11.2.7 of the Development Plan requires that proposals for higher buildings, of over three storeys, in residential areas should be accompanied by a site analysis (including character appraisal) and a statement that addresses the impact of new development. In my opinion, this is not evident within the application documentation submitted, and adequate justification has not been provided to clearly show how the proposed scheme would be consistent with the established residential character of the area and its receiving environment, generally. The proposal would not be in accordance with Policy H17-5, in my opinion, which seeks to ensure that new development in established areas does not impact negatively on the amenities or character of an area.
- 7.2.17. In summary, I consider, having regard to the overall size, scale, height and massing of the proposed development, which is in proximity to an existing low-rise residential street, that it would result in significant negative overbearing, overdominance and negative visual impacts and that it would significantly affect the amenity and established residential character of the area. The proposal would not be in

accordance with Section 2.4.0 of the Development Plan and should be refused permission for this reason.

7.3. Residential and Visual Amenity

- 7.3.1. I note that the proposal development has been designed to try and mitigate against any direct or perceived overlooking. This is achieved by way of a considered elevational treatment and design and careful positioning of windows throughout the scheme. This excludes any windows above ground floor level on the east and west elevations that face directly outwards onto adjoining properties.
- 7.3.2. Whilst the use of varied materials would assist in helping to avoid any overly monolithic affects, I consider that the height, massing and volume of the development proposed would not be excessive for the receiving residential context south of the appeal site.
- 7.3.3. I further that that the Planning Authority states that the proposed development would be deficient in usable public open space (reasons for refusal nos. 2 and 6) and that this would give rise to a substandard level of residential amenity for future occupants.
- 7.3.4. The Apartment Guidelines require communal open space to be provided at a rate of 5sqm, 7sqm and 9sqm for 1, 2 and 3-bedroom units, respectively, which results in a requirement for 83sqm. It is proposed to provide 2 no. landscaped spaces equating to roughly 227sqm. I have discounted the remaining slivers of green space to the west and south as they are not useable open space areas, in my view, due to their small size and narrowness.
- 7.3.5. Given the size, shape, configuration of the subject site, I do not consider it necessary for the public open space requirement to be met onsite and that it would be better, if permission is granted, to apply a condition requiring payment of a financial contribution in lieu, which is in accordance with Section 8.7.4 of the Development Plan.
- 7.3.6. The proposed open space is sufficient in terms of its size, location and setting within the site, in my opinion, and I note that a dedicated play space has been provided for. The open spaces are north and east facing, regularly shaped and overlooked by apartment units / terrace areas. This space would provide an acceptable level of

residential amenity for the future occupants of the scheme, including those with children. Therefore, I consider the proposed open space to be acceptable as 'communal amenity space' and that it would be in accordance with the requirements of the Apartment Guidelines.

7.4. Traffic and Access

- 7.4.1. The Planning Authority's reason for refusal (No. 5) states that there is inadequate space for a rigid refuse lorry to access the site from Ardeevin Drive and that fire tender vehicle would require multiple hazardous movements to enter and exit the proposed development.
- 7.4.2. I have reviewed the swept path analysis accompanying the application. The information shows that whilst a heavy vehicle could potentially physically access the site from a new southern access, a series of turning movements would likely be required to do so. The manoeuvres of large, heavy vehicles would require several forward and reversing movements, within a tight space, on a narrow residential street.
- 7.4.3. The swept path analysis also shows the arrangement without any parked cars on the street, which when present, would likely make the task of accessing the site more difficult and less safe. During my site inspection (c. mid-day, 27th July 2022) I observed that parked cars on the street were generally using parking bays. However, this was at a time when some residents would likely be at work, study, etc., and when demand for car parking on the street would potentially be less. In a situation where residents or visitors might park a car along the sides of the street – a situation not unusual on a residential street – I consider it possible that significant traffic and access issues could arise.
- 7.4.4. Furthermore, given the restricted environment within which large delivery, service and emergency vehicles would be required to operate, it is likely that oversailing manoeuvres across public footpaths would occur and that dwelling entrances and residential driveways would be encroached upon.
- 7.4.5. I note that the Council's Roads Department share the above concerns and that they have recommended refusal of the proposed development for reasons relating to the proposed access from Ardeevin Drive, which is considered unsafe and hazardous.

Their report also states that sightlines from the proposed access onto Leixlip Road (R835) could potentially be problematic and that the Applicant has not demonstrated a clear and unobstructed visibility splay towards the east from the proposed entrance on the R835. I note that the Applicant's appeal includes limited information in this regard and states only that the proposed works are intended to be in accordance with DMURS standards.

7.5. Other Issues

Street Trees

- 7.5.1. It is proposed to remove the street trees and part of a hedgerow that is on the southern boundary of the site. There is some confusion as to whether this section of land is within the Applicant's ownership.
- 7.5.2. The Planning Authority has stated that the trees are in their ownership, and that there is no agreement from the Council to allow for their removal. Conversely, the Applicant has submitted a map as part of their appeal alleging that they own the land in question. However, I do not consider that the information submitted is adequate in way of formal evidence and note that the map is devoid of any scale, dimensions or measurements to assist in the assessment of this issue. The Applicant could have produced more formal documentation to provide clarity on the matter. However, they have not done so.
- 7.5.3. In any event, I would note the provisions of Section 34(13) of *Planning and Development Act, 2000 (as amended)* relating to 'Permission for Development', which states that "*a person shall not be entitled solely by reason of a permission under this section to carry out any development*". Therefore, in the event permission is granted, there may be other legal considerations that apply, which the landowner may need to address outside of the planning system.

SuDS

- 7.5.4. The Planning Authority's reason for refusal No. 7 is in relation to SuDS measures. It states that the full potential for natural drainage/SUDS features has not been fully explored within the proposed design and that this is unsatisfactory given the proposed loss of trees and vegetation and location of the site within the curtilage of a Protected Structure.

- 7.5.5. I note that the Applicant has included revised information in their appeal in the form of drawings and other supporting information, which confirms that the scheme design has been amended so that tree pits now connect to the proposed storm water network. This would assist in reducing surface water run-off from the new development. The proposal also includes permeable paving and a green roof, which would further help to soak up rain and filter out pollutants.
- 7.5.6. I note that an internal report from Council's Water Services Section does not object to the proposal and recommends that conditions be attached in the event of a grant of permission, which would require details of all proposed SuDS features.
- 7.5.7. Furthermore, Irish Water has reported that there is adequate capacity within their water and wastewater networks to serve the development and that no concerns regarding capacity have been raised.

7.6. Overlooking, Daylight and Sunlight – New Issue

- 7.6.1. A shadow analysis illustrates that the proposed development would have minimal impact with regards to overshadowing adjacent properties, including the Protected Structure (north). However, there are certain discrepancies within the shadow analysis report, including repetition of overshadowing diagrams for the 21st September (0900 and 1800hrs), where I note shadow spill is the same.
- 7.6.2. Furthermore, the application documentation does not include a full assessment of the BRE Guide: Site Layout Planning for Sunlight and Daylight, 2011 as would typically be expected for a high-density apartment scheme such as this. For this reason, it is difficult to ascertain whether the apartment units would receive an adequate amount of internal light given their orientation and size and, in some cases, lack of dual aspect.
- 7.6.3. This is a new issue, and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out in this report, it may not be considered necessary to pursue the matter.

7.7. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development, which is for an infill apartment development and ancillary site works, 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 a European site.

8.0 **Recommendation**

I recommend that planning permission be refused for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

- 9.1. Having regard to existing built form and character of the area, to the established streetscape along Ardeevin Drive, and proposed removal of street trees along the southern boundary of the site; it is considered that the proposed development, consisting of a four-storey apartment block, would be incongruous in terms of its design, height, scale, massing and bulk; and would be out of character with its surrounding vicinity. The proposed development would seriously injure the visual and residential amenities of the area, be contrary to the stated policy of the Planning Authority, as set out in the *South Dublin County Development Plan 2016-2022*, including Policy H17-5, which seeks to ensure that new development in established areas does not impact negatively on the amenities or character of an area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 9.2. Having regard to the limited area and proposed access arrangements from Ardeevin Drive; which is a narrow, residential cul-de-sac; and where proposed ingress/egress arrangements for service and emergency vehicles would lead to hazardous traffic turning movements on a substandard road; it is considered that the proposed development would represent inappropriate backland development, seriously injure

the amenities of adjoining residential property and would, therefore, endanger public safety by reason of a traffic hazard.

- 9.3. It is considered that the proposed development would endanger public safety by reason of traffic hazard due to a vehicular entrance off the R835 at a point where sightlines are restricted.

Ian Boyle
Planning Inspector

28th July 2022