



An
Bord
Pleanála

Inspector's Report ABP 313569-22

Development	91 apartments
Location	Former Europa Garage Site, Newtown Avenue, Blackrock, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D21A/0958
Applicant	Seabren Developments Ltd.
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	1 st Party v. Condition
Appellant	Seabren Developments Ltd.
Observer(s)	None
Date of Site Inspection	01/12/22
Inspector	Pauline Fitzpatrick

1.0 Introduction

The Board is advised that the site was subject of a Strategic Housing Development under ref. ABP 308877-20 for which permission was granted for 100 residential units in 2 no. 1 to 6 storey buildings over basement.

2.0 Site Location and Description

The site is as previously described in the SHD application and is as follows:

The development site is located c. 400m to the south east of the centre of Blackrock Village, at a prominent corner location at the junction of Newtown Avenue and Seapoint Avenue.

It has a stated area of 0.49 ha and was formerly occupied by the Europa garage (previously a tram depot), which has since been demolished. The site is currently under construction.

The site is bounded to the south and west by residential development. Newtown Villas to the west comprises a short cul-de-sac of single storey cottages and is designated as an Architectural Conservation Area (ACA). There are single storey dwellings to the south in Craigmore Gardens, also two storey dwellings that front onto Newtown Avenue. Blackrock House, Newtown House and Seapoint Manor, detached structures to the north east and east of the site, are Protected Structures. Newtown Avenue is one-way in the vicinity of the site with traffic travelling north and west from the N31. A contra flow cycle track lies on the northern side of the road and there is on street parking along Newtown Avenue along the northern site frontage.

3.0 Proposed Development

The application was lodged with the planning authority on the **02/11/21** with further plans and details submitted **25/03/22** accompanied by revised public notices following a further information request dated 21/12/21.

Permission sought for 91 no. units in two buildings ranging in height from 1 to 4 storeys over basement (with attic accommodation for 2 units).

The proposed unit mix is:

49 no. 1 bed units ranging in size from 49-61 sq.m.

38 no. 2 bed units ranging in size from 66-94 sq.m.

4 no. 3 bed units ranging in size from 96-108 sq.m.

4.0 Planning Authority Decision

4.1. Decision

Grant permission for the above described development subject to 33 conditions.

Condition 2: (a) 50% of the apartments are to be two bed units. This can be achieved through the amalgamation of units A-37 and A-38 within Block A and units B-31 and B-32 in Block B. Alternative proposals can be put forward.

(b) revised landscaping proposals which incorporate 2-3 small specimen trees within the landscape strip to north of unit A-06.

(c) louvre screening to a height of 1.7 metres above finished floor level to be provided on western side of the balconies serving unit nos. B-12, B-24 and B-35.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The **1st Planner's** report dated **21/12/21** notes:

- Planning history on site
- Internal Council reports
- As it is the intention to not implement the extant planning permission on site clarification required whether retention permission is to be sought for demolition of existing structures as part of the development.
- The proposal does not fully comply with SPPR 1 of the apartment guidelines with one bed units accounting for 54%. It is not a Build to Rent scheme nor does SPPR 2 apply where flexibility can be applied in terms of unit mix.

Compliance with SPPR 1 required. It may be necessary to amalgamate a number of one bed units.

- Modifications to roof design not appropriate.
- Clarification required on conclusions of sunlighting and daylighting study.

Further information recommended in line with the requirements of the internal reports (summarised below) and the issues summarised above.

The **2nd report** dated **19/04/22** following further information notes:

- The applicant's reference to the planning authority's ability to exercise discretion in terms of unit mix is not strictly relevant in this instance. SPPR 2 does not apply given the overall size of the application site. It is possible to amalgamate a number of 1 bed units to deliver the apartment mix which would comply with SPPR1. A condition to address this proposed.
- A reduced on site car parking provision is acceptable given the location of the site and availability of public transport.
- Contributions to be calculated for 89 apartments (taking account of amalgamation of units).

A grant of permission subject to conditions recommended.

4.3. **Other Technical Reports**

Environment Section Report dated **26/10/20** (sic) recommends conditions attached to permission ABP 308877-20 be retained.

1st Lighting report dated **26/11/21** details lighting requirements. The **2nd report** dated **05/04/22** following further information requires the light levels to be increased to meet a P4 lighting class.

Transportation Planning Section in a report dated **07/12/21** recommends further information on car parking, electric vehicle charging points, cycle parking provision, loading bay and on street parking bays, refuse collection and emergency vehicle access. **2nd report** dated **12/04/22** notes insufficient car parking provided. Outstanding matters to be addressed by way of condition.

Environmental Health Officer in a report dated **01/12/21** recommends further information seeking a more detailed Construction Environmental Management Plan. **2nd report** dated **11/04/22** recommends further information on a detailed noise action plan and a more detailed Construction Environmental Management Plan.

Parks in a report dated **09/12/21** recommends conditions to address landscaping design and planting, special financial contribution in lieu of public open space, variety of play equipment and green roofs.

Municipal Services Department in a report dated **10/12/21** recommends further information on green roofs, surface water pumping, surface water drainage and consideration of failure of surface water pumping system in the flood risk assessment. **2nd report** dated **13/04/22** considers details on the green roofs remains outstanding. Conditions recommended should permission be granted.

Housing Department in reports dated **13/12/21** and **07/04/22** recommends a Part V condition.

4.4. **Prescribed Bodies**

Irish Water in a report dated **11/12/21** recommends further information requiring the applicant to make a pre-connection enquiry.

4.5. **Third Party Observations**

Observations on the proposal received by the planning authority are on file for the Board's information. Issues raised relate to impact on residential amenities, contravention of Blackrock LAP, suitability of height and design, impact on protected structures, access and traffic and unit mix. One observation considers the proposal to be acceptable.

5.0 **Planning History**

ABP 308877-20 – permission granted April 2001 for 101 apartments in two buildings ranging in height from 1 to 6 storeys over basement with attic accommodation for 2 no. units. The unit mix comprised of:

- 51 no. 1 bed units

- 42 no. 2 bed units
- 8 no. 3 bed units

Condition 3 of the decision required the omission of 1 no. apartment (B48).

6.0 Policy Context

6.1. Development Plan

Since the planning authority's assessment of the application the 2022 Dun Laoghaire Rathdown County Development Plan came into effect.

The site is within an area zoned A the objective for which is to provide residential development and improve residential amenity while protecting the existing residential amenities.

Policy Objective PHP27: Housing Mix

To encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided throughout the County in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future Regional HNDA.

Section 12.3.3.1 Residential Size and Mix

The finding of the Housing Strategy and HNDA have informed policy PHP27 in relation to mix (refer to Appendix 2 Housing Strategy and HNDA 2022 – 2028).

In order to demonstrate compliance with Policy Objective PHP27 and based on the findings of the Housing Strategy and HNDA, planning applications received for 50+ residential units either individually or cumulatively with lands located within the neighbourhood (10-minute walk) will be required to incorporate a variety and choice of housing units by type and size so as to meet the differing household need in the County.

The proposed provision of residential units (both houses and apartments), shall provide a mix that reflects existing, and emerging household formation, housing demand patterns and trends identified locally and/ or within the County.

Applications received in both new residential communities and within the residual built up area shall include:

- Details of existing and permitted unit types within a 10-minute walk of the proposed development.
- A detailed breakdown of the proposed unit type and size including a percentage split between 1/2/3+ bed units which in the case of apartments (and duplexes), shall generally be in accordance with Table 12.1.
- A site and/or floor plans that clearly identify proposed units that:
 - Are designed and located having regard to the needs of older people and/or persons with a disability.
 - Are designed having regard to the concept of lifetime adaptable and/or multigenerational homes.
- A statement outlining how the scheme has been designed for the needs of older people and / or persons with a disability and / or lifetime homes.
- No more than 10% of the total number of units in any private residential development may comprise of two-bedroom three-person apartment types.

Table 12.1 sets out the mix requirements for apartment developments. Duplexes are considered to be apartments for the purposes of mix.

Area	Threshold	Mix Studio/1/2 bed Requirement (Apartments and duplexes)	3+ bed Requirement (Apartments)
Existing Built up area.	Schemes of 50+ units	Apartment Developments may include up to 80% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios	Minimum 20%

6.2. Natural Heritage Designations

None in the vicinity

7.0 The Appeal

7.1. Grounds of Appeal

The submission from Doyle Kent Planning Partnership Ltd. on behalf of the applicant is an appeal against condition 2, only. The condition requires that 50% of the apartments within the scheme are two bedroom units which can be achieved by amalgamating 4 no. 1 bed units; 2 no. in each block. Alternative proposals can be put forward.

The grounds of appeal can be summarised as follows:

- The omission of 2 no. residential units would render the development unsustainable.
- The scheme permitted under ABP 308877-20 allowed for 51 no. 1 bed, 42 no. 2 bed and 8 no. 3 bed.
- The reduction in the number of units sought and adjustment in unit mix is to provide for a reduction in the overall height of the permitted corner element of Block B by 2 floors without substantially changing the layout of the apartments or the visual expression of the scheme. The units being removed to allow for this reduction are 2 no. 1 bed, 3 no. 2 bed and 4 no. 3 bed. This would result in the ratio of 1 bed apartments being marginally increased to 54% with the number of 2 no. bed units being marginally decreased.
- The reduction in height of Block B from the previously consented development provides for a high quality urban infill scheme and any further amendment to the layout of Block B to achieve a reduction in one bed units would interfere with the delivery of an architecturally and commercially appropriate scheme.
- The marginal change to what has been permitted does not significantly alter or result in a material change to the principle of the permitted development.

- There is scope within the apartment guidelines for planning authorities to exercise discretion in applying the standards on a case by case basis on urban infill sites. The planning authority did not give adequate weight to the argument put forward in this regard in the further information response.
- The unit mix is generally consistent with the guidance set out in SPPR1 of the guidelines as the percentage of 1 bed units marginally exceeds the 50% ratio. There is no requirement for 3 bed units in SPPR1.
- The mix of units will add to the diversity and range of housing stock within the general area.
- The information given by way of further information as to cumulative impact of unit mix in the Blackrock area was not given adequate assessment. It was demonstrated that the overall mix of studio and one bed units would increase by 1% from 36% to 37% within the Blackrock Area. The cumulative impact of the proposal is not significant and will not result in a proliferation of such unit types.

7.2. Planning Authority Response

The grounds of appeal do not raise any new issues which would justify a change of attitude to the proposed development.

8.0 Assessment

Overview

- 8.1. As noted above the site subject of the appeal secured permission in April 2021 under ref. ABP 308877-20 (SHD application) for 100 apartments (condition 3 reduced the number by 1 from 101) in two buildings ranging in height from 1 to 6 storeys. In same the unit mix, as permitted, provided for 51 no. 1 bed units, 42 no. 2 bed units and 7 no. 3 bed units.
- 8.2. The apartment scheme subject of the current application is comparable in design but in seeking to reduce the height by 2 storeys, thereby reduces the number of apartment units to 91. As noted on day of inspection construction is ongoing on site.

8.3. In the context of the planning history on the site I am satisfied, having examined the details of the application and having visited the site, that the determination of the application by the Board, as if it has been made to it in the first instance, would not be warranted. Accordingly, I consider that it is appropriate to use the provisions of Section 139 of the Planning and Development Act 2000, as amended, and to consider the issues arising out of the disputed condition only.

Condition 2

8.4. The applicant is contesting one part of the condition, only, namely subsection (a) which requires the amalgamation of 4 no. one bed units to provide for 2 no. 2 bed units thereby reducing the overall number of apartments from 91 to 89. This is so as to ensure that 2 bed units account for 50% of the overall mix.

8.5. As the provisions of section 139 do not allow for an appeal against part of a condition, only, the entirety of the condition is before the Board for review.

8.6. The scheme as proposed entails the following unit mix:

- 49 no. 1 bed units (54%)
- 38 no. 2 bed units (42%)
- 4 no. 3 bed units (4%)

8.7. The agent for the applicant states that the rationale for the application is so as to provide for a reduction in the corner element of Block B by two floors from that previously permitted development without substantially changing the layout of the apartments or the visual expression of the consented scheme.

8.8. The planning authority in its assessment makes reference to the requirements of SPPR1 of the Apartment Guidelines which states that developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan.

- 8.9. In this context the percentage of one bed units at 54% exceeds the 50% ceiling as specified in SPPR 1 but makes provision for a small percentage of 3 bed units which are not specified as a percentage requirement.
- 8.10. With a site area of 0.46 hectares I would concur with the planning authority's interpretation that the provisions of SPPR2 which allows for a level of discretion on a case by case basis on all refurbishment projects and small infill sites would not apply. This is on the basis that the guidelines define such 'small infill sites' as being less than 0.25 hectares,
- 8.11. Since the planning authority's assessment and adjudication on the application the Dun Laoghaire Rathdown County Development Plan, 2022, came into effect in which due regard is given to national policy and guidance including the said section 28 guidelines. The plan would have been subject to review by the OPR to ensure consistency with national and regional policy.
- 8.12. In accordance with the provisions of SPPR1 of the apartment guidelines, policy objective PHP27 and section 12.3.3.1 of the plan have been informed by the Housing Strategy and Housing Need Demand Assessment (see Appendix 5 of the plan). The plan states that schemes of 50+ residential units either individually or cumulatively with lands located within the neighbourhood (10-minute walk) will be required to incorporate a variety and choice of housing units by type and size so as to meet the differing household need in the County. The proposed provision of residential units (both houses and apartments), shall provide a mix that reflects existing, and emerging household formation, housing demand patterns and trends identified locally and/ or within the County. The percentage split between 1/2/3+ bed units shall generally be in accordance with Table 12.1. Within such a built up area a 50+ scheme may include up to 80% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios. 20% are to be 3+ bed units.
- 8.13. The scheme as proposed provides for 96% 1 bed and 2 bed units and 4% 3 bed units and is, therefore, at variance with the parameters set. However I do not interpret these parameters as mandatory with a level of discretion provided for having regard to the variety and choice of unit type and size in the vicinity.

- 8.14. In response to the request for further information and repeated in the appeal submission details are provided on extant permissions in the Blackrock area whereby the 1 bed units in the development as proposed would result in a 1% increase in the overall provision of such sized units from 34 to 35%. The percentage of 2 bed units would drop marginally from 57% to 56% with 3 bed units remaining at 7%.
- 8.15. On balance I consider that the request to allow for the quantum of 1 bed units as proposed is acceptable in this instance having regard to:
- (a) the provenance of the proposal as detailed above, namely revisions to an approved scheme to allow for a reduction in its height without materially altering the internal layout,
 - (b) the minimal cumulative impact in terms of 1 bed units permitted in extant permissions in the vicinity,
 - (c) the preponderance of larger family sized units in the Blackrock area,
- 8.16. On this basis I recommend that subsection (a) of condition 2 be omitted.
- 8.17. Subsections (b) and (c) of the condition set out requirements in terms of landscaping and louvre screening to specific balconies. The said provisions are considered reasonable and I recommend that these elements of the condition be retained.

9.0 Recommendation

- 9.1. Having regard to the documentation on file, the grounds of appeal, my site inspection, and the assessment above I recommend that the planning authority be directed to **AMEND** condition 2 as follows for the following reasons and considerations.

Condition 2:

Revised plans and elevation drawings incorporating the following modifications shall be submitted and agreed in writing with the planning authority prior to commencement of development:

- (a) Landscaping proposals which incorporate 2-3 small specimen trees within the landscape strip to the north of apartment no. A-06.

(b) Louvre screening to a height of 1.7 metres shall be provided on the western sides of the balconies serving apartments nos. B-12, B-24 and B-35.

Reason: In the interest of protecting residential and visual amenities.

Reasons and Considerations

Having regard to the planning history on the site, policy objective PHP27 and section 12.3.3.1 of the Dun Laoghaire Rathdown County Development Plan 2022 pertaining to housing mix, and to the pattern and type of existing and permitted residential development in the vicinity, the proposed unit mix of apartments is acceptable and would not give rise to a proliferation of one bedroom apartment units in the area.

Pauline Fitzpatrick
Senior Planning Inspector

December, 2022