



An
Bord
Pleanála

Inspector's Report

ABP-314007-22

Development	Outline permission for new four storey apartment block to the rear of 66 Clonliffe road, accessed from Tolka road, which will consist of 7 no. of 1, 2 and 4 bed apartments.
Location	66, Clonliffe Road, corner with Tolka Road, Dublin 3.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	3744/22
Applicant(s)	Miral Buidling Contractors Ltd.
Type of Application	Outline Planning Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	David Ivers
Date of Site Inspection	23 rd November 2023
Inspector	Conor Crowther

1.0 Site Location and Description

- 1.1. The site is situated within a garden area to the rear of no. 66 Clonliffe Road, which is a vacant two storey end of terrace dwelling. The site is located approximately 1.9km northeast of Dublin City Centre, within the Local Authority area of Dublin City Council. The site area measures approximately 130m² and is accessed from Tolka Road. The site was heavily covered in overgrowth which has since been substantially cutback and removed.
- 1.2. The site is bounded to the north by a rear laneway, to the south by no. 66 Clonliffe Road, to the west by Tolka Road and to the east by the rear garden of no. 64 Clonliffe Road. The surrounding area is predominantly suburban in nature, set within an urban area given the proximity to the city centre.

2.0 Proposed Development

- 2.1.1. The proposed development for outline planning permission is described as follows:
 - Construction of a four storey apartment block comprising of a mix of 7 no. 1, 2 and 4 bed apartments.
 - Access from Tolka Road. No parking proposed.
- 2.1.2. I note that there is a discrepancy between the description of development in Section 6 of the planning application form and the breakdown of residential mix in Section 12 of the planning application form which appears to suggest that 1, 2, 3 and 4 bed apartments will be included, whereas the description of the development only refers to 1, 2 and 4 bed apartments.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Outline permission was GRANTED by the Dublin City Council (the Local Authority) on the 8th June 2022 subject to 14 no. conditions¹. Conditions of note include:

¹ On the 28th June 2022 condition no. 4 was amended to correct a clerical error.

- Condition 2 relates to the granting of a development of 5 no. apartments in a two storey block with an additional setback third storey, instead of the development proposed.
- Condition 4 requires a Sunlight & Daylight Assessment of the consented development and any balconies to be facing Tolka Road in order to avoid overlooking of rear gardens.

3.2. **Planning Authority Reports**

3.3. Planning Reports

- 3.3.1. The Planning Officer's report issued on the 8th June 2022 recommending a GRANT of permission, subject to 14 no. conditions.

3.4. Other Technical Reports

- 3.4.1. Drainage – On the 12th May 2022 a report issued from the Drainage Division citing no objections to the proposed development, subject to the submission of a full planning application.
- 3.4.2. Transportation – On the 24th May 2022 a report issued from the Transportation Department citing no issues with the proposed development, subject to 5 no. conditions.
- 3.4.3. Environmental Health – On the 28th April 2022 a report issued from the Environmental Health Officer citing no objections to the proposed development, subject to compliance with good practice and the submission of a construction management plan.

3.5. **Prescribed Bodies**

- 3.5.1. Irish Water/Uisce Éireann – no response received.
- 3.5.2. Irish Rail/Iarnród Éireann – no response received.

3.6. **Third Party Observations**

- 3.6.1. 13 no. 3rd party observations were received. The issues raised by observers are mostly covered in the grounds of appeal, apart from the following concerns:

- Removal of trees from the site.
- Potential impact of construction works.
- Creation of unnecessary precedent.
- Impacts on the sewage and drainage system.
- Inaccuracies in the floor area proposed by the applicant.

4.0 Planning History

Subject Site:

WEB1056/23 – INVALID application, on the 1st February 2023, for 2 no. four bed, three storey semi-detached dwellings with 2 no. vehicular accesses from Tolka Road and parking for each dwelling.

WEB1068/23 - INVALID application, on the 13th February 2023, for the same proposed development as WEB1056/23.

Neighbouring Site:

3130/13 – WITHDRAWN application, on the 28th April 2014, for single storey detached childcare facility at the rear of existing two storey terraced house (no.62 Clonliffe Road) with replacement of existing gate at existing entrance to Tolka Road.

5.0 Policy Context

5.1. Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009

5.1.1. Although significantly dated at the time of writing, these guidelines serve to implement the principles of sustainable residential development in urban areas. The guidelines encourage the following approaches:

- Encourage increased densities on residentially zoned land, particularly on land within 500m of a bus stop or 1km of a light rail stop.
- Utilise the capacity of existing social and physical infrastructure.

- 'In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill'.

5.2. Sustainable Urban Housing; Design Standards for New Apartments (2023)

5.2.1. These guidelines were originally issued in 2018 and amended numerous times, most recently in 2023, they represent the government position on the design of new apartment developments. The following standards are applicable to the proposed development:

- 'Where up to 9 residential units are proposed, notwithstanding SPPR 1, there shall be no restriction on dwelling mix, provided no more than 50% of the development (i.e. up to 4 units) comprises studio-type units'.
- 'In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply:...A minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate.... For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects'.
- 'For all types of location, where it is sought to eliminate or reduce car parking provision, it is necessary to ensure, where possible, the provision of an appropriate number of drop off, service, visitor parking spaces and parking for the mobility impaired.... For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, car parking provision may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and location'.

5.3. Dublin City Development Plan 2022-2028

5.3.1. I note that the current Development Plan was not in force at the time of the original application for outline permission made to Dublin City Council. In the intervening period between the date of the original application and the appeal application, a new Development Plan has been adopted.

5.3.2. The following are policies and objectives of relevance to the proposed development from the Dublin City Development Plan:

- Zoning Objective Z1 (Sustainable Residential Neighbourhoods) – ‘To protect, provide and improve residential amenity’.
- The following policies of the Development Plan relate to housing mix and apartment development:
 - Policy SC12 – Housing Mix.
 - Policy QHSN6 – Urban Consolidation.
 - Policy QHSN36 - High Quality Apartment Development.
 - Policy QHSN38 - Housing and Apartment Mix.
- Section 15.5.2 states the following ‘Infill development should complement the existing streetscape, providing for a new urban design quality to the area. It is particularly important that proposed infill development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape’.
- Section 15.8.6 requires a minimum of 10% of the overall site area to be allocated for public open space in residential developments within zoning Z1. However, a financial contribution can be sought in lieu of this.
- Appendix 3 (Achieving Sustainable Compact Growth Policy for Density and Building Height in the City) – Given that the site is located outside the canal belt the following standards apply:
 - Density range of 60-120 units per ha.
 - An indicative plot ratio range of 1-2.5.

- A site coverage range of 45-60%. Higher ratios can be applied under certain circumstances.
- A minimum height range of 3-4 storeys is supported for suburban area outside of the canal ring. Greater heights can be considered on a case-by-case basis. Higher densities are promoted on sites within 500m walking distance of a bus stop or 1km walking distance of a light rail stop or rail station.
- Appendix 5 (Car Parking Standards) – The parking standards detailed in this appendix are set out on the basis of ‘maximum’ allowable parking spaces per development type, depending on the zone under which the development falls. The proposed development would require a maximum of 1 parking space per dwelling according to these parking standards. Although, it is noted that no parking is provided with the proposed development.

5.4. Natural Heritage Designations

5.4.1. The following sites are located in the surrounding area of the proposed development:

Proposed Natural Heritage Area (pNHA):

- Royal Canal (002103) – approx. 407m.
- North Dublin Bay (000206) - approx. 1km.

Special Protection Area (SPA):

- South Dublin Bay and River Tolka Estuary (004024) – approx. 1.1km.

5.5. EIA Screening

5.5.1. Having regard to the limited nature and scale of the proposed development, and the location of the site within a serviced urban area at a remove from areas of environmental sensitivity, 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 stage (see Appendix 2) and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third party appeal was submitted by the appellant on the 5th July 2022 opposing the decision of the Planning Authority to GRANT outline permission. The grounds of appeal are summarised as follows:

- The dimensions submitted with the plans and particulars are inaccurate. It is noted that the site area measures approximately 130m² and not 1,270m² as suggested by the applicant in the application form.
- The proposed development would be detrimental to residential amenities by way of its scale, mass and height.
- The proposed development does not include car parking and will induce a potential negative impact on traffic safety.
- The site does not qualify for a lesser amount of car parking than considered appropriate as it is not located within walking distance of high frequency public transport nodes.
- Car parking cannot be accommodated onsite, and its omission will encourage unmanaged and uncontrolled parking in the surrounding area.
- The site coverage is not consistent with the stated standards of the development plan.
- The proposed development will create a negative visual impact and will facilitate overbearing, overshadowing and overlooking as a result of close proximity to existing dwellings.
- The plot ratio suggested by the applicant (0.5) is inaccurate; the actual plot ratio is in excess of 2, which exceeds the indicative plot ratio set out in the development plan.
- The proposed development represents a gross overdevelopment of the site and is out of character with the existing housing stock.
- Particular concern about the impact on the residential amenity of no. 29 Tolka Road and no. 64 Clonliffe Road.

- Reference to devaluation of neighbouring properties.

6.2. Applicant Response

6.2.1. The response of Sherlock & Co Solicitors, on behalf of the applicant, to the grounds of appeal can be summarised as follows:

- The appellant does not have locus standi to make an appeal to the Board on behalf of persons that were not included in the appellant's original observation on the application.
- The appellant does not have the authority to represent the named individuals in his appeal and has provided no evidence of such.
- The appellant lists 12 named individuals and therefore the fee should reflect the fact that there are 12 appellants.
- Many of the appellant's objections are specifically addressed in the planning conditions contained within the outline planning permission granted by Dublin City Council.
- Car parking issues and residential amenity concerns raised by the appellant would be more appropriately addressed as part of the process to apply for full planning permission. It is noted that the outline permission granted by Dublin City Council includes conditions relating to both.
- The appellant has not provided any detail or specifications to support his claim that the proposed development would have a visual impact and would devalue property in the surrounding area.
- The appellant's suggestion that the measurements of the site are incorrect is inaccurate as the measurements have been based on an architect's review and measurements taken on the ground.
- There are a number of trees fronting onto Clonliffe Road that are infected with ash dieback which need to be removed in the interests of public safety, as detailed in the arborist's report included in the submission.
- The appellant is correct in stating that there are many developments and alterations to existing properties in the area.

6.3. Planning Authority Response

6.3.1. The Planning Authority have not provided any further observations on this appeal.

6.4. Observations

6.4.1. None received.

7.0 Assessment

7.1.1. I note that the applicant has raised concerns with regard to the validity of the appellant's appeal to the Board. I am satisfied that the appellant's 3rd party appeal is valid as he is the named party on both his appeal to the Board and his observation to the Local Authority.

7.1.2. Considering the residential zoning of the site, and the predominant residential uses in the surrounding area, I consider the principle use of residential development to be acceptable on this site. I, therefore, consider the main issues in determining this appeal are as follows:

- Compliance with Development Plan Standards
- Other Matters

7.2. Compliance with Development Plan Standards

7.2.1. The Dublin City Development Plan states that infill sites are typically regarded as 'lands between or to the rear of existing buildings capable of being redeveloped i.e. gap sites within existing areas of established urban form'. The subject site can be characterised as lands to the rear of an existing building within an established urban area. Having regard to the level of development to the rear of no.72 Clonliffe Road situated to the west of the proposed development i.e. an established creche, it is reasonable to consider the site of the proposed development as an infill development site due to its potential for redevelopment.

7.2.2. The site is narrow and constrained by existing residential development that is largely low rise in character. The measurements submitted with the application do not appear to reflect the true size and form of the proposed development. Having

analysed the site itself and the proposed development, it is considered that the proposed development site measurements are as follows:

- Site area – 130m²
- Site Coverage – 90%
- Height – 4 storey
- Density – 538/ha

7.2.3. The development of 7no. apartments would significantly exceed the standards set out in the Dublin City Development Plan, which are informed by the National Design Standards for New Apartments. In particular, it appears as though the proposed development is significantly in excess of the indicative site coverage and density standards, as advised by Appendix 3 of the Development Plan.

7.2.4. I note that the site is located within close proximity to relatively frequent public transport services such as bus and rail transport. This could allow for greater leeway in terms of compliance with Development Plan standards, in accordance with Appendix 3 of the Development Plan, particularly due to the status of the site as an infill site. However, the level of non-compliance with the Development Plan standards, in the subject proposal, is considered to be excessive and does not fall within the scope of this leeway.

7.2.5. The height of the proposed development at 4 storeys high will be approximately double that of existing development in the surrounding area. This scale of development in a low-rise area on a constrained site would, in my view, lead to overlooking, overshadowing and overbearing of neighbouring properties. Thus, I am of the opinion that the proposed development would negatively impact the residential amenities of neighbouring properties which is contrary to the provisions of Zoning Objective Z1 of the Development Plan. Considering the proposed site coverage amounts to 90%, it is likely that there will be little opportunity to mitigate this impact. I am therefore of the opinion that the proposed development represents overdevelopment of a constrained site.

7.2.6. No car parking spaces are provided as part of the proposed development, and a maximum amount of 1 parking space per dwelling is permissible. Where it is proposed to provide less parking spaces than the maximum allowable amount, a

number of criteria must be satisfied in order to demonstrate the need for the reduction in car parking spaces, as detailed in the Development Plan. No justification has been provided, in line with the criteria, as part of the subject proposal. However, I would expect car parking to be provided as part of any residential development of this scale on this site, particularly given the existing parking constraints in the surrounding area.

7.2.7. Whilst I consider the principle of the use of the development acceptable on this site, I do not consider the scale, mass and height of the proposed development to be acceptable given the non-compliance with Development Plan standards. I am of the view that the developability of the site is constrained by concerns relating to residential amenity and car parking, in particular, and that the potential to address these concerns by way of condition is inhibited by the constrained nature of the site. It is not clear that development in accordance with condition no.2 of the Planning Authority decision can achieve a satisfactory standard of development or residential amenity on this site.

7.3. **Other Matters**

7.3.1. I note that the application includes reference to trees to the front of no.66 Clonliffe Road which are supposedly suffering from ash-dieback disease and present a public health & safety risk. As this area is not located within the redline boundary of the proposed development, it is not within my remit of assessment.

7.3.2. I note from review of images on Google maps dating to May 2022 and from the Local Authority Planning Officer's report that a large tree was located within the redline boundary of the proposed development. However, from my analysis of the site on my site visit, it appeared as though this tree has since been removed during clearance of the rear of no.66 Clonliffe Road. I am therefore satisfied that a large tree would not present an impediment to the development of this site. There is now very little distinction between the rear garden of no.66 and 64 Clonliffe Road, except for a small temporary metal barrier, due to the extensive planting and scrub removal.

7.3.3. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the

value of property in the vicinity. Any effect would be associated with impacts on adjoining residential amenity as set out above.

7.4. Conclusion

- 7.4.1. I consider the principle use of the proposed development to be acceptable on this site. However, I do not consider the size, scale and form of the proposed development to be acceptable in this instance and I do not envisage that this can be addressed by way of condition. Thus, I am of the view that outline permission should be refused on the basis that it is contrary to Zoning Objective Z1 of the Development Plan which seeks to 'protect, provide and improve residential amenity', and that the lack of car parking provision is likely to cause a traffic hazard.

7.5. Appropriate Assessment Screening

- 7.5.1. I note that the application was not accompanied by a screening report for Appropriate Assessment. I also note that the Local Authority did not undertake Appropriate Assessment Screening of the proposed development.
- 7.5.2. The proposed development has been considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, and Appropriate Assessment (and submission of a NIS) is not therefore required.
- 7.5.3. This determination is based on the following:
- The size and scale of the proposed development;
 - The location of the proposed development in an established urban area that is suitably serviced; and
 - The separation from and lack of connectivity to any European Sites.
- 7.5.4. This screening determination is not reliant on any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be REFUSED, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. Having regard to the restricted nature of this site and the established pattern of development in the surrounding neighbourhood, it is considered that the proposed development by reason of its scale, form and height would constitute overdevelopment of a limited site area. The proposed development would, therefore, seriously injure the amenities of the area and would be contrary to Zoning Objective Z1 of the Dublin City Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the car parking provision for the proposed development and, in particular the lack of sufficient on-site car parking spaces and loading/unloading areas, would be seriously deficient and would be inadequate to cater for the parking demand generated by the proposed development, thereby leading to conditions which would be prejudicial to public safety by reason of traffic hazard on the public roads in the vicinity.

Inspector - Declaration

Having reviewed the case assigned to me, I hereby declare that to the best of my knowledge I am satisfied that I do not have a conflict of interest in relation to this case and I am in compliance with the Board's Code of Conduct.

Print Name _____

Signature _____

Date _____

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Conor Crowther
Planning Inspector

11th December 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-314007-22		
Proposed Development Summary	Outline permission for new four storey apartment block to the rear of 66 Clonliffe road, accessed from Tolka road, which will consist of 7 no. of 1, 2 and 4 bed apartments.		
Development Address	66, Clonliffe Road, corner with Tolka Road, Dublin 3		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	✓	
	No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	✓		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
		N/A	Conclusion
No			No EIAR or Preliminary Examination required
Yes	✓	Class 10(b)(i) and (iv)/ min. 500 dwelling units and/or an area greater than 10 ha	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	<input checked="" type="checkbox"/>	Preliminary Examination required
Yes	<input type="checkbox"/>	Screening Determination required

Inspector: Conor Crowther

Date: 11th December 2023

Appendix 2 - Form 2
EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-314007-22	
Proposed Development Summary	Outline permission for new four storey apartment block to the rear of 66 Clonliffe road, accessed from Tolka road, which will consist of 7 no. of 1, 2 and 4 bed apartments.	
Development Address	66, Clonliffe Road, corner with Tolka Road, Dublin 3	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?		No No
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having regard to other existing		No

and/or permitted projects?		No
Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?		No No
Conclusion		
There is no real likelihood of significant effects on the environment. EIA not required. Yes	There is significant and realistic doubt regarding the likelihood of significant effects on the environment. Schedule 7A Information required to enable a Screening Determination to be carried out. No	There is a real likelihood of significant effects on the environment. EIAR required. No

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)