



An
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Pleanála

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Inspector's Report ABP 315387-22

Development	Demolition of outbuildings and laneway access to rear gardens of existing buildings, construction of three two storey mews dwellings, with undercroft parking, a ground level access from laneway, private open space, boundary walls and site works.
Location	Rear of Nos 8 and 9 Drumfinn Park, Ballyfermot, Dublin 10.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	4941/22
Applicant	Orlaghcon Ltd.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Ballyfermot Stars CLG.
Date of Site Inspection	8 th August, 2023.
Inspector	Jane Dennehy

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1.0 Site Location and Description

- 1.1. The site has a stated area of 0.08 hectares and located midway along a terrace to two storey buildings on Drumfinn Park which overlook a park and in which the ground floors are in retail, café and community uses. Nos 8 and 9 at ground level are in retail use. A lane which extends from Drumfinn Road to the west to Rossmore Avenue to the east adjoins the rear boundaries of the properties and is parallel to Drumfinn Park. There is a single storey extension to the rear of the buildings at the application site. (Nos 8 and 9) and the remainder of the space in the rear garden space is an open yard and two gated entrances are on the boundary at the lane at the rear.
- 1.2. The appellant party occupies the original terraced building at No 7 Drumfinn Park adjoins the east side of the site. It also occupies a second building of relatively recent construction at the rear with an entrance off the rear lane adjacent to the application site entrance. Ballyfermot Road and the Ballyfermot Civic Centre are to the south and the Sports Complex is to the west.

2.0 Proposed Development

The application lodged with the planning authority on 28th September 2022 indicates proposals for demolition of outbuildings and the laneway access to rear gardens of existing buildings, subdivision of the original rear garden areas of existing terraced buildings and their amalgamation to form the site for the three proposed two bed mews dwellings, with undercroft parking, ground level access from laneway, boundary walls and site works. The dwellings which are two storey and have a contemporary and unified design approach. Undercroft garages providing for one off street parking space per dwelling with individual entrances direct off the lane frontage are included in the proposal. Private open space for each dwelling is to be provided between the inner façade of the dwellings and the new boundary with the rear open space for the original buildings.

The application is accompanied by a detailed written submission prepared by the applicant's agent.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 22nd November, 2022, the planning authority decided to grant permission subject to conditions which include the following requirements:-

Condition No 4 (a) has a requirement for omission of first floor balconies on the north elevation and minor design modifications. Revised drawings are to be agreed in writing with the planning authority.

Condition No 7 (a) has a requirement for a construction management plan to be prepared and agreed in writing with the planning authority.

Condition No 8 has a requirement for a comprehensive engineering services report, including a surface water management plan for management of foul and surface water to be prepared and agreed in writing with the planning authority.

Condition No 9 provides for standard hours of construction which allow for works between 7.00 am – 6.00 pm on Monday to Fridays

Condition No 10 has a requirement for compliance with BS 5228: *Noise Control for Construction on Open sites: Part 1 'Code of Practice for basic information and procedures for noise control'*.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officer in his report indicates satisfaction with the proposal subject to minor changes to include omission of balconies at first floor level and inclusion, by condition of requirements for the construction stage. (Condition No 4 (a) refers.)

The private open space depth at 6.8 metres in depth is acknowledged as less than the recommended minimum depth of 7.5 metres in the CDP having regard to section 16 10 for Mews Dwellings. In noting the functional relationship with the living accommodation, the size at forty-five square metres and the infill nature of the site the planning officer considered the proposal acceptable in this regard. In addition, it is stated that there are no issues of concern regarding sunlight and daylight access,

in that the proposed development would provide for achievement of a minimum of two hours sunlight over fifty percent of the open space on 21st March.

In his report, the planning officer states that the requirements of the Drainage Department (see para 3.2.2 below) could be addressed by condition, and that the recommendation for a flood risk assessment report could be set aside given the serviced urban site location.

The planning officer also indicates satisfaction with the proposed arrangements for parking and the access off the laneway having regard to the CDP standards for mews lane development with regard to lane width. It is also remarked that there is sufficient space for refuse storage within the under-croft parking spaces and a 600 mm setback to facilitate pedestrian access.

3.2.2. Other Technical Reports

The Drainage Department's report contains recommendations for a flood risk assessment report, for an engineering services report and for surface water management plan demonstrating consistency with SUDS standards to be prepared and submitted as further information.

The report of the Transportation Department and the Environmental Health Officer indicate no objection to the proposed development.

4.0 Planning History

P. A. Reg. Ref. 6886/06: Permission for retention of an extension to the rear of No 8 Drumfinn Park and change of its use from storage to retail, including sale of alcohol for consumption off the premises was granted subject to conditions.

5.0 Policy and Context

5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2022-2038.

The site is subject to the zoning objective: Z3: Neighbourhood Centres:- "*To provide for and improve neighbourhood facilities*". Residential development is permissible.

According to Section 15.13.5 mews schemes in a unified approach are encouraged, where there is consensus among the relevant property owners, but individual proposals will be considered on a case-by-case basis. Guidelines, criteria and standards for mews lane development are provided. Development standards for mews lane development are in section 16.10.16.

The location is within Area 3 for parking standards providing for a maximum of .1.5 spaces per dwelling.

The prior, Dublin City Development Plan, 2022-2038 was extant at the time of the assessment of the application and determination of a decision by the planning authority.

5.2. Strategic Guidance.

Project Ireland 2040 - National Planning Framework (NPF)

Regional Spatial and Economic Strategy 2019-2031 RSES

Sustainable Residential Development in Urban areas, Guidelines for Planning Authorities (DoEHLG, 2009) (SRDS)

5.3. EIA Screening

5.4. Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was lodged by Ballyfermot Star's CLG of No 7 Drumfinn Park which is a registered charity involved in working, in a calm atmosphere with vulnerable children and their parents on 19th December, 2022. It operates from two sites, a main building at No 7 Drumfinn Park and at the Realt Beag Child and Family Centre at the rear of No 7 Drumfinn Park adjacent to the application site. High quality childcare, a

child centred approach to early learning, for children with varying needs, including work in a sensory room and support to parents and guardians is provided at the Family Centre for fifty weeks a year.

According to the appeal the proposed development, mainly during the construction stage gives rise to grave concerns with regard to the operation of the services provided by Ballyfermot Star CLG and health and safety as outlined below:-

- Housing development is supported but the location for the proposed development is inappropriate because it would affect the work of the organisation in providing essential services for vulnerable people.
- A training room at No 7 Drumfinn Park is close to the site, and it would be impossible to conduct therapeutic programmes for traumatised people suffering from substance abuse and PTSD during the construction stage due to the disturbances. A major impact would be caused by noise and disturbances during the construction on services provided which include a sensory room.
- There is concern as to appropriate procedure and safeguards being in place and about a need for a high level of communication with the developer.
- There is concern as to risk to the structural stability of the party wall with the Realt Beag building.
- The proposed development's bedroom windows would overlook a first-floor external play area and ground floor play spaces at the rear of Realt Beag.
- The rear wall of which would be thirteen metres from the buildings at 8 and 9 Drumfinn Park and less than six metre from the private gardens at No 26 Drumfinn Road and 12 Rossmore Avenue within is below the levels within the Dublin City Development Plan.
- There is insufficient private open space provision at 45 square metres per dwelling because a minimum of 10 square meters per bed space and 60 – 70 square metres is considered appropriate for rear garden areas. Defensible space behind footpaths is necessary. The proposed dwellings open directly onto the lane.

- There is concern about traffic and parking in that the lane is 5.2 metres wide – Turning and accessing the garages would be constrained. Realt Beag is accessed from the same lane and caters for twenty-six children and thirteen staff and there are implications or access by emergency services and potential for obstructions. The development would create a safety risk for children accessing the centre during construction, especially with deliveries to the site and possible parking on the lane. A protected pedestrian walkway is desirable.

6.2. Applicant Response

A submission was lodged by the applicant's agent on 26th January, 2023 which includes the applicant's case to justify the proposed development and the appeal grounds as outlined in brief below.

- With regard to construction noise the applicant will ensure compliance with providing for a construction management plan as required by condition No 7 (a) and also, compliance with S 5228 Noise Control on Construction on and Open sites: Part 1: Code of practice for basic information and procedures for noise control ' as required under Condition No 10 is required under the attached to planning authority decision.
- With regard to concern about the structural stability of the party wall, it will be demonstrated that no risk to the wall will arise in the required construction management plan which will be agreed with the planning authority (Condition No 7 (a))
- All necessary measures will be in place during the construction stage for management of disturbances to by vermin and it will be ensured that refuse arrangement will have no negative impacts on health or amenities.
- Standards for protection of amenities and mitigation of overlooking are satisfactorily achieved in the design, as stated in the planner's report by way of the separation distances of 12.74 and 16.24 from the existing dwelling and the 13,630 metres depth for the proposed dwellings. The CDP provides for relaxation of the twenty-two metres standard for separation distance between opposing windows having regard to site constraints and innovative high-

quality design if undue overlooking overbearing an overshadowing impact are avoided.

- With regard to overlooking and separation distances from other adjoining properties and overlooking of rear gardens at Nos 12 Rossmore Avenue and No 26 Drumfinn Road, reference is made to the comments as to acceptance of the proposed development in this regard within the planning officer report and to the omission of the north elevation balconies are to be omitted to protect amenities of the rear gardens in Condition No 4 attached to the decision to grant permission.

6.3. **Planning Authority Response**

In a submission received from the planning authority on 25th January, 2023 it is requested that if permission is granted conditions would be attached with requirements for a Section 48 development contribution, a Bond, a financial contribution in lieu of open space and a numbering condition.

7.0 **Assessment.**

7.1. The issues central to the determination of a decision are considered below under the following subheadings:

Strategic and local policy objectives

Nature of use.

Construction stage impacts

Structural Stability – Boundary Wall

Adequacy of the Laneway - Public safety

Private Open Space and Overlooking.

Appropriate Assessment

Strategic and local policy objectives

7.2. The sensitivity of the services provided for vulnerable clients at the Family Centre at the adjoining property, No 7 Drumfinn Park, and particularly the need for a calm

working environment operated by the Appellant Party is appreciated and has been taken into consideration. However, it should be borne in mind that the assessment the determination of a decision of proposed development is to be considered in the context of the national strategic and local planning policy and the interests of proper planning and sustainable development.

- 7.3. In considering the proposal from a planning perspective, given the site location, its configuration and local planning policies and objectives, the proposed development would contribute to achievement of national strategic and local policy objectives in that provides for residential development on underutilised serviced land consolidating an established urban area close to services and facilities and in particular a public transport corridor. Bearing this policy context in mind, development subject to consistency with the relevant planning criteria and satisfactory qualitative standards is to be encouraged.

Nature of Use.

- 7.4. It is not clear that there is any specific reasoning in the appeal that explains and supports the appellant's view that residential development is in a use which is incompatible with the services it provides on the adjoining site at No 7 Drumfinn Park, mainly at the Family Centre building at the rear with frontage onto the lane. Based on the information in the appeal about nature of the services provided by the Appellant it is considered that residential use would be a more favourable and compatible use relative to several other land uses of a commercial nature that would tend to generate greater circulation social interaction and potential for disturbance to a calm environment.

Construction Stage.

- 7.5. The appellant has indicated serious concern about the construction stage for the proposed development and has claimed that it would not be possible to provide its services for its vulnerable client group during this period. While the concerns of the appellant and the specific nature of its services are appreciated, it would be unreasonable to preclude and potentially sterilise an adjoining site from possible future development due to grounds relating to disturbance during a construction period in the event that a development is otherwise suitable and to be encouraged. It should be borne in mind that a construction stage is of limited duration, a timespan

being provided for in construction management plan and that works conducted vary in nature and extent at different times, and consequently as to the potential for inconvenient and disturbance in the vicinity during a construction period.

- 7.6. In the case of the subject development, having regard to the views of the planning officer in his assessment and the conditions attached to the decision to grant permission it is considered that a balanced approach to construction management has been achieved. Subject to adherence to the requirements of the conditions, and in particular Nos 7 (a), 8, 9 and 10, which are supplemented by separate codes such as those for environmental protection, public health and safety standards the proposed development having regard to the construction stage is acceptable.
- 7.7. A construction management plan should provide clarity on agreed arrangement for construction traffic, routing, loading and unloading, parking materials storage, waste management, wastewater, noise and dust mitigation and Should permission be granted a revised condition for construction management plan can be included which may provide for greater assurance for the appellant. A high level of communication with the developer, which the appellant seeks, can be addressed in the construction management plan by way of appointment of a nominated individual to oversee the liaison with representatives of the adjoining properties.

Structural Stability – Boundary Wall.

- 7.8. The proposed development would be adjacent to the site party wall adjoining the building housing the Family Centre, in the adjoining property of the Appellant Party. It is not apparent having regard to the application submission that the structural stability would be at risk in the absence of good construction practice incorporating appropriate protective and mitigation measures that can be provided for within the construction management plan. However, any dispute would be a matter for resolution through the legal remit.

Adequacy of the Laneway - Public safety.

- 7.9. As indicated in the report of the Transportation department, the width of the lane at circa 5.2 – 5.3 metres is above the minimum width recommended for mews lane development in the CDP. The lane's length is circa sixty to seventy metres with vision being totally unobstructed along its entire length between Rossmore Avenue and Drumfinn Road at each end. The adjoining Family Centre building has a small

recess and space behind the entrance doors on the frontage and a similar arrangement is to be provided in the proposed development enabling pedestrians to stand back behind the building line.

- 7.10. Given the lane width and proposed width of the entrances and size and of the undercroft/integrated garage spaces, there is scope for safe access and egress for vehicles, without any need for carparking on the lane. There are six original buildings facing onto Drumfinn Park with rear boundaries on the lane which include the two properties from which the application site is formed and the Appellant party's property. Trip generation by the proposed development and its associated turning movements would not give rise to undue risk of endangerment of public safety of pedestrians including vulnerable road users by reason of traffic hazard.

Refuse storage and Vermin.

- 7.11. At construction stage, protective measures should be incorporated within the details of the proposed construction and associated waste management arrangements. At operational stage, bin storage on the lane, to which the appellant objects should not arise other than on 'bin lift day' in that there is sufficient space for storage in the dwellings' under-croft integrated garage areas. There would be no requirements for turning areas for refuse collection vehicles.

Private Open Space and Overlooking.

- 7.12. It is agreed with the appellant and planning officer that the proposed balconies would give rise to undue overlooking of residential properties to the north on Rossmore Avenue and Drumfinn Road.
- 7.13. It is noted, as has been pointed out in the appeal, that the separation distance between the windows in the proposed dwellings and those directly opposite in the existing buildings on Drumfinn Park's rear elevation at upper floor level fall short of the minimum recommended distance of twenty-two metres in the CDP. However, the CDP provides for some discretion and flexibility with regard to the separation distance in respect of mews development and it is agreed with the planning officer that the shortfall which is limited can be accepted without there being an undue diminution of residential quality due to overlooking.
- 7.14. Similarly, it is agreed that the shortfall of 0.7 metres in depth of the rear garden spaces for the proposed dwellings from the recommended minimum depth of 7.5

metres can be accepted in that the configuration and amenity potential and the residential quality of the development. The amenity of private open space would not be unduly diminished by the shortfall.

Appropriate Assessment Screening

- 7.15. Having regard to the nature and scale of the proposed development, the absence of emissions therefrom, the nature of receiving environment as a built-up urban area and the distance from any European site and the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 Recommendation

- 8.1. In view of the foregoing, it is recommended that the planning authority decision be upheld, and that permission be granted based on the reasons and considerations and subject to the conditions which follow:-

9.0 Reasons and Considerations

Having regard to the location of the infill site in an established suburban area, close to services and facilities and a main transport corridor and, to the nature of proposed use it is considered that subject to the conditions set out below, the proposed development would be acceptable in terms of public health and safety and traffic convenience, would not seriously injure the residential amenities of property in the vicinity or the amenities of the area and, would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out

and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The first-floor north elevation balconies for each of the dwellings shall be omitted. Revised drawings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the protection of residential amenities of properties on Rossmore Avenue and Drumfinn Road.

3. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

The location of the site and materials compound including the area storage of construction refuse.

Details of site security fencing and hoardings; arrangements for pedestrians and vehicles in the case of the closure of the lane during the course of construction,

Details of the timing and routing of construction traffic.

Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.

Appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.

Reason: In the interest of public health and safety.

4. The following requirements shall be provided for and adhered during construction:

Hours of construction works shall be confined to 0700 hrs – 1800 hrs Monday to Friday excluding bank holidays and 0800 hrs – 1400 hrs Saturdays only. Deviation from these hours shall be subject to the prior written agreement of the planning authority.

Management of noise during the construction stage shall be in compliance with the standards in, BS 5228: *Noise Control on Construction and Open Sites – Part 1 ‘Code of Practice or basic information and procedures for noise control’*.

Reason: In the interest of residential amenity and the amenities of the area.

5. The following requirements shall be provided for and adhered to in the development;-

Entrance gates, if any to the under crofts/integrated garages for each dwelling shall be sliding or inward opening only.

Refuse storage for each dwelling shall be provided for within the under-croft-integrated garage areas and not on the laneway (except on day of waste collection by service provider)

Reason: In the interest of amenity and safety.

6. Prior to the commencement of the development the applicant shall submit and agree in writing with the planning authority, a comprehensive engineering services report for the proposed management of foul and surface water to include provision for management of the surface water in accordance with Sustainable Urban Drainage Systems (SuDS)

Reason: In the interest of public health and to ensure a satisfactory standard of development.

7. The developer shall enter into water and wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

8. Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.

Reason: In the interest of public health.

9. Details of all external finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

10. Proposals for a name and house numbering scheme be submitted and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interests of urban legibility.

11. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or

on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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.

Jane Dennehy
Inspector
10th August, 2023