



An
Bord
Pleanála

Inspector's Addendum Report

ABP-315459-23

Development

Modifications to previously granted planning permission. Modifications to internal layout, elevations and roof level of Block B and reduction from 49 apartments to 44 apartments. Alterations to site boundaries and amendments to basement level and courtyard area and all associated site works. Development will now consist of 64 apartments. Previous Planning Permission: Reg. Ref. 3308/20; ABP-309366-21.

Location

76, 76G & 280 Bannow Road, Cabra, Dublin 7.

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

4574/22

Applicant(s)

Colin Daly, Nicola Daly & Andrew Haydon

Type of Application

Permission

Planning Authority Decision

Grant permission

Type of Appeal	First & Third Party
Appellant(s)	Colin Daly, Nicola Daly & Andrew Haydon. Serena Quinn and Stephen Hassett.
Observer(s)	Architectural Construction Technology; Cabra Racing Pigeon Club; Henry O'Brien and Others.
Date of Site Inspection	03 rd January 2024
Inspector	Bernadette Quinn

1.0 Introduction

- 1.1. This is an addendum report and should be read in conjunction with the original Inspector's report prepared in respect of appeal ref. ABP-315459-23, dated 29th January 2024.
- 1.2. Board Direction BD-015876-24 dated 21/03/2024 sets out the decision of the Board to defer consideration of the case and to issue a Section 137 notice to all parties as follows:

The Board notes the Sustainable Urban Housing Design Standards for New Apartment Guidelines for Planning Authorities issued under Section 28 of the Planning and Development Act, 2000, as amended, issued in July 2023, which, in Section 3.18 state as follows: ***'north facing single aspect apartments may be considered, where overlooking a significant amenity such as a public park, garden or formal space, or a water body or some other amenity feature. Particular care is needed where windows are located on lower floors that may be overshadowed by adjoining buildings'***. The guidelines also state in Section 3.35 ***'Private amenity space should be located to optimise solar orientation and designed to minimise overshadowing and overlooking'***.

The Board notes the Dublin City Development Plan 2022-2028, Section 15.9.3 which outlines considerations relating to Dual Aspect including the following definition ***'A dual aspect dwelling is defined as one with openable windows on two external walls, which may be either on opposite sides of a dwelling or on adjacent sides of a dwelling where the external walls of a dwelling wrap around the corner of a building'***. The Board notes that the development plan goes on to state ***'North facing units will only (board emphasis) be considered where they face an area of high amenity value such as a public park, water body or another significant view of interest. For clarity, north facing units are units which predominantly face north (i.e. over 50% of the façade). North east and north west units are defined as units that fall within a 45 degree angle of due north. This unit configuration will be considered in limited circumstances on a case by case basis'***.

Notwithstanding the material submitted on file and with the appeal, the Board may not be satisfied that apartments subject to the first party appeal (Units B08, B17, B26, B35 and B44) are in compliance with the above policies, and notes that apartments B01, B09, B18, B27 and B36 on the north west side of Block B may also be considered to be single aspect north-facing apartments.

- 1.3. Responses received to the S. 137 notice were required to be circulated to all other parties to the appeal including Dublin City Council and the Board requested that following receipt of same the file be returned to the inspector for an addendum report.
- 1.4. Notice of Board Direction BD-015876-24 was issued to all parties and responses were received from the first party and the planning authority.
- 1.5. Under S. 131 of the Act, the response of the first party and the planning authority were cross circulated to all parties to the appeal, including observers, who were invited to make submission or observations on the same.
- 1.6. Responses to the Section 131 circulations were received from
 - Cabra Racing Pigeon Club
 - Ms. Serena Quinn and Mr. Stephen Hassett
 - Henry O'Brien
 - Colin Daly, Nicola Daly and Andrew Haydon (the first party)
- 1.7. This addendum report has subsequently been prepared in response to the Board Direction BD-015876-24 21/03/2024.

2.0 Background

- 2.1. Appeal ABP-315459-23 concerns an application for modifications to a previously granted planning permission (reference 3308/20) comprising a Build to Rent (BTR) residential development including modifications to internal layout, elevations and roof level of Block B and reduction from 49 apartments to 44 apartments and alterations to site boundaries.

3.0 Response's Received

3.1. The Applicant's Response

3.1.1. On 12th April 2024 the Board received the applicant's response to the Section 137 request. The response reiterates the points made in the first party appeal which are summarised in the original Inspector's report prepared in respect of this appeal. The appeal includes architect's drawings providing for an alternative design option.

Additional points raised can be summarised as follows:

- The reason for the high-level windows on the eastern elevation was to allow for future development of the Pigeon Club site. As this now appear unlikely the Board may consider attaching a condition that standard sized openable windows be provided on the east elevation in lieu of the high-level windows thereby providing for dual aspect units.
- The north facing apartments were previously granted permission by DCC and ABP and it is not justified why condition 7a is required when the principle of the north facing apartments has already been granted permission.
- The applicants preference is for the proposal to remain as is so as not to reduce the total number of apartments which is more appropriate than providing for a reduced number of apartments having regard to the current housing crises and demand in the area.
- An alternative design approach is proposed in the event the Board is not satisfied with the development as proposed, with a revised layout for the units at the north east and north west of Block B to replace the two no. 1 bed units with one no. 2 bed unit on each floor at both the north east and north west side of Block B.
- The alternative design option is considered a less sustainable use of the site to address a concern that has been fully addressed and disproven.
- Delays in assessing the appeal will result in less than 2 years remaining in the life of the permission and the applicants are therefore requesting that the Board consider granting permission with a 5 year timeline.

3.2. The Planning Authority Response

3.2.1. On the 10th April 2024 the Board received the Planning Authority's response to the Section 137 request which can be summarised as follows:

- Since the approval of the parent permission the Dublin City Development Plan 2022-2028 and Sustainable Residential Development for Compact Settlements Guidelines have come into force. The documents seek to provide sensitively designed, higher density development at appropriate locations. In this case the proposed development is located in proximity to Broombridge Luas Station and is highly accessible.
- The location and outlook of the apartments were considered acceptable by An Bord Pleanála in the previous application (3308/20; ABP-309366-21) and therefore significant precedent in terms of the acceptability of these units has been set. If ABP choose to omit these apartments from the development or refuse permission, the applicants could develop the site including the north facing single aspect units as per the previously approved layout.

4.0 Consultation Responses

4.1. Following receipt of the Section 137 responses from the first party and the planning authority, these responses were then cross-circulated to all the parties involved, with further responses invited under Section 131.

4.2. Responses were received from:

- Cabra Racing Pigeon Club
- Ms. Serena Quinn and Mr. Stephen Hassett
- Henry O'Brien
- Colin Daly, Nicola Daly and Andrew Haydon (the first party)

4.3. Response from Third Party and Observers

The responses reiterate many of the points made in the third-party observations to the appeal which are summarised in the original Inspector's Report prepared in

respect of this appeal. Additional points raised that are relevant to the first party submission can be summarised as follows:

- Concerns in relation to the request for a five year permission.
- The proposal to replace single aspect apartments with a fewer number of larger dual aspect apartments acts to slightly address the imbalance in apartment mix.
- Should the Board condition the high-level windows to be standard windows this would seriously reduce and damage the development potential of the club house site.
- The residents of Bannow Road remain concerned about the quality of the proposed north facing units in Block B which provide for sub-optimal residential amenity and request that Condition 7a be retained.

4.4. Response from First Party

On the 04th June 2024 the Board received a response from the first party to the submission by Dublin City Council. The issues raised can be summarised as follows:

- The PA indicated that the alternative option of providing 2 bedroom units in lieu of 1 bedroom units on the northern side of Block B will ensure compliance with space standards set out within the Apartment Guidelines and also the required unit mix. However, it is important to note that all of the units proposed by the applicant and requested to be retained as part of the first party appeal were compliant with the relevant space standards set out in the Apartment Guidelines. As the proposal is for a Build to Rent scheme there is no limit on the unit mix which complies with SPPR 8 of the Apartment Guidelines December 2020 which apply to this application.
- The PA appear to support increased density and as such the omission of units from the scheme would go against this policy led position.
- The Board previously overturned the PA's condition to omit units from the northern elevation of Block B and deemed them to be appropriate and suitable and it is requested that the Board uphold their own previous decision.

- The statement by the PA in their submission that the apartments to the north of Block B are acceptable and that significant precedent in terms of the acceptability of these units has been set is welcomed.
- The PA statement that the original scheme can be implemented is incorrect as it requires the existing pigeon club to be retained which makes for a difficult build process and an unviable scheme. The modified scheme seeks to omit the pigeon club entirely such that the development is built away from it

5.0 Assessment

5.1. Having reviewed the response of the applicants and the planning authority as well as the submissions received from interested parties, I am satisfied that the main matters to be considered in this addendum report to the original Inspectors report for appeal ref. ABP-315459-23 dated 29th January 2024 are as follows:

- Precedent
- Life of Permission

5.2. Precedent

- 5.2.1. Both the first party and the planning authority note that north facing apartments were previously granted permission by DCC and ABP and as such the principle of the north facing apartments has already been granted permission.
- 5.2.2. The permitted development incorporates an east facing living room window and balcony in addition to the north facing windows. Whilst I consider the east facing window would not comply with the Development Plan definition of dual aspect in that it is not on an external wall on the opposite side of a dwelling or on an adjacent side of a dwelling where the external wall wraps around the corner of a building, I consider it provides for a level of amenity above that which is proposed in the modified design which omits the east facing living room window and balcony and provides for north facing single aspect units with north facing balconies. North facing single aspect apartments are specifically precluded under the Apartments Guidelines and the Development Plan unless overlooking an amenity feature. The first party has stated the north facing units enjoy an aspect over the canal. Whilst this may be the case for the upper most units, the units on the lower floors do not have such a view

and in my opinion would not comply with the Apartment Guidelines or the Development Plan in terms of aspect or private amenity space provision. In relation to the PA and first party's case that the north facing apartments were previously granted permission I consider the proposed amendments are likely to result in a reduced level of amenity for future occupants below that already permitted and would not be considered acceptable.

5.2.3. Having regard to the proximity of the eastern side elevation of Block B to the pigeon club house, I do not consider it appropriate that standard sized openable windows be provided on the east elevation in lieu of the high-level windows thereby providing for dual aspect units as proposed by the first party. I agree with the submission from Cabra Racing Pigeon Club in this regard which states that such a revision would impact the future development potential of the club site.

5.2.4. The first party has submitted drawings with their submission which provide for the replacement of the relevant one bed Apartments (units B01, B09, B18, B27 and B36) with two bed dual aspect apartments which are north and south facing. I consider it appropriate to attach a condition that the development be carried out in accordance with these revised drawings.

5.3. Life of Permission

5.3.1. In relation to the first party request to extend the life of the permission, the applicant has sought permission for modifications to an existing permission and there is no provision to extend the life of the permission. If the applicant wishes to seek an extension of the duration of the permission I note there are provisions within the Act which provide for same and that any such extension should be sought under these provisions.

6.0 Recommendation

6.1. The recommendation remains that permission be GRANTED for the reasons and considerations set out in Section 10 and subject to the conditions set out in Section 11 of the original Inspector's report, and with the amendment of condition 2 a) as set out below:

7.0 Additional Condition

2 a) The proposed development shall be amended as follows:

The layout of Block B shall be undertaken in line with the drawings received by An Bord Pleanála on 12th April 2024 which replaces Apartments B01, B08, B09, B17, B18, B26, B27, B35, B36 and B44 with two bed dual aspect apartments.

Reason: In the interests of clarity and visual and residential amenity

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.

Bernadette Quinn
Planning Inspector

15th July 2024