



An
Bord
Pleanála

Inspector's Report ABP-317449-23

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| Development | Demolition of commercial buildings and construction of a three-storey student housing building comprising 30 no. units. |
| Location | Mount Dillon Business Park / Commercial Yard, Brookville Park, Malahide Road, Artane. |
| Planning Authority | Dublin City Council |
| Planning Authority Reg. Ref. | 3509/23 |
| Applicant(s) | Michael Moran |
| Type of Application | Planning Permission |
| Planning Authority Decision | Refuse permission |
| Type of Appeal | First Party v Decision |
| Appellant(s) | Michael Moran |
| Observer(s) | Darren Tighe Maryfield Artane Residents Association Mount Dillon Neighbours Group c/o Derek Bridges |
| Date of Site Inspection | 25 th July 2024 |
| Inspector | D. Aspell |

1.0 Site Location and Description

- 1.1. The site is referred to as Mount Dillon Commercial Yard. It is accessed off Brookville Park, Artane. Brookville Park runs parallel to and is accessed off Malahide Road.
- 1.2. The site is generally rectangular in shape and comprises single storey commercial and storage units around a car parking and car storage area. The site includes the existing access which comprises a single-width lane from Brookville Park.
- 1.3. There is 2-storey residential development adjacent on all sides. Semi-detached dwellings along Brookville Park back onto the site from the east. An end of terrace dwelling (No. 106 Ardbeg Park) sides onto the site from the north. Another end-of-terrace dwelling (No. 104 Ardbeg Park) sides onto the site from the west. The Mount Dillon Court residential development is to the south-west. A dwelling known as Brookville House is adjacent to the south-east.

2.0 Proposed Development

- 2.1. The proposed development comprises demolition of the existing single-storey structures on site and construction of a 3-storey student accommodation building.
- 2.2. The proposed student accommodation is divided into 3 no. 'clusters'. There is one cluster on each floor with each cluster comprising 10 no. en-suite bed rooms off a shared hallway, which access to a common area for each cluster. Each common area measures c.45sqm and comprises a single room with kitchen, dining and living space. The layout of each bed room is not shown, however each room is to be either single or double bed. All ground floor rooms are disabled-access rooms.
- 2.3. A total of 8 no. car parking spaces are proposed.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council issued a notification to refuse permission for 2 no. reasons. Reason No. 1 related to the quality and standard of development. Reason No. 2 related to impacts on surrounding residential amenity in terms of noise & disturbance, overbearance & obtrusiveness, and overlooking.

3.2. Planning Authority Reports

3.2.1. Planning report: The planning authority report recommended refusal. The report made the following points:

- There is merit in developing the site for residential as it is surrounded by dwellings, however the site is constricted due to neighbouring residences. Similar concerns were expressed in previous refusals on site (Ref. 3622/20);
- City Council student accommodation guidelines prefer student needs are met in purpose built & managed schemes and not conversion of family housing;
- Five dwellings were previously permitted on site (Ref. 2427/17/ABP-300574-18). Proposal Ref. 3622/20/ABP-309280-21 had the same footprint but was refused due to amenity & quality, and injury to neighbour residential amenity;
- Design & integration – Building would not be overly visible from public realm. Significant concerns regarding adjoining properties and low-quality appearance. Similar concerns raised in Ref. 3622/20. Northern elevation will be overbearing, dominating and monolithic. Render finish is not acceptable. Improved articulation, detailing and materials would lessen impacts;
- Sunlight/daylight - No analysis submitted. Previous analysis submitted for this site is not relevant. There are significant concerns in this regard;
- Overbearance - Massing, height and proximity to boundaries will result in an overbearing and obtrusive appearance to neighbouring occupants;
- Overlooking - The extent of obscure glazing requires clarification. Concerns regarding obscure glazing to bedrooms and implications for poor amenity. Removal of obscure glazing will result in excessive overlooking;
- Location & concentration – Unclear whether student accommodation is appropriate in terms of pedestrian/cycle connections to third level institutions. No assessment of student accommodation within 1km is provided. No proposals for local community integration or third level coordination provided;
- Student accommodation standards – Accommodation comprises ‘clusters’ of bedrooms served by communal kitchen, living & dining space. Proposal

exceeds maximum allowed 8 no. bedspaces and 160sqm gross floor area for a cluster and is therefore contrary to development plan Section 15.13.1.1;

- Proposal is not on a campus so must provide indoor & outdoor communal facilities. No indoor communal facilities are proposed. These are required in addition to kitchen/living/dining space. There are significant concerns regarding impact on neighbours from outdoor communal roof space;
- The site will be 100m from the Malahide Road Quality Bus Corridor and BuSConnects Core Bus Route. The Board have yet to decide on the Clongriffin to City Centre Bus Corridor Scheme which will serve the site;
- It is unclear if the location is appropriate for tourist accommodation;
- Proposal is contrary to development plan; would have negative impact on adjoining residential amenity; would not be a high-quality, professionally managed third-level accommodation; and would be substandard.

Other Technical Reports

3.2.2. Transportation Planning: Report recommended further information as follows:

- The access lane is restrictive but can accommodate private cars. The lane is not wide enough for two cars to pass at the entrance but there is space along the laneway. The parking provision will not generate more traffic than existing;
- Parking – Concern that insufficient parking is provided, however provision materially contravenes development plan and must be reduced. Proposal should be professionally managed. There is a shortfall of cycle parking;
- Report recommends further information for a reduction in car parking, details of car sharing, demonstrate the laneway is sufficient for service vehicles, operational management plan, mobility management plan, service delivery & access strategy, and cycle parking provision. The report also recommended further information on the extent of ownership of the laneway serving the site.

3.2.3. Drainage: Report recommended further information, summarised as follows:

- Surface water management proposals are not acceptable. It is not possible to state that satisfactory proposals in this regard can be provided. Permission should be withheld until information is provided. Proposal to incorporate

green/blue roofs. Proposed parking and driveway to incorporate sustainable urban drainage systems. All surface water discharge to be attenuated. A flood risk assessment shall be submitted.

- 3.2.4. Environmental Health Officer: Report recommended that if permission is granted conditions be attached in relation to noise management during construction and operation, and air pollution during operation.

3.3. **Third Party Observations**

- 3.3.1. During the planning application stage 4 no. observers made submissions to the planning authority. These were Darren Tighe; Maryfield Artane Residents Association; Mount Dillon Neighbours Group c/o Derek Bridges; and Mary Dowling. The issues raised related to: accommodation design & management; residential amenity; scale & design; access, parking & transportation; land use; backland development; visual impact; property devaluation; precedent; and drainage.

3.4. **Prescribed Bodies**

None received.

4.0 **Planning History**

4.1. Subject site

Reg. Ref. 4984/23: Live planning application to DCC awaiting response to clarification of further information request. Demolition of existing commercial buildings and construction of residential development of 5 two/three storey with attic terraced houses with pitched roofs, parking to front, and existing vehicular access.

Ref. 3622/20 (ABP-309280-21): Planning permission refused by the Board in 2021 for demolition of existing single storey commercial buildings and construction of a flat roof, 1- and 3- storey building comprising 13 no. 1-bed apartments with balconies to front and rear, parking, existing access from Brookville Park, new vehicular access from Mount Dillon Court. Permission was refused for 2 no. reasons.

Reason 1 was on grounds of amenity for future occupants and the quality of apartment development, by reason of the design, layout, private/communal open space, provision of cycle parking, storage and lack of clarity on access and servicing, insufficient privacy and security and accessibility for all.

Reason 2 was due to impact on residential amenity of property in the vicinity by reason of overlooking, overbearance and obtrusive appearance.

Refs. 2427/17 (ABP-300574-18) and 2427/17/X1: Planning permission granted by the Board in 2018 for demolition of existing commercial buildings and construction of residential development of 5 no. 2- to 3-storey terraced houses, 10 parking spaces to front, via the existing vehicular access. Extension of duration application 2427/17/X1 refused 2023 as substantial works had not commenced on the site.

4.2. Nearby sites:

Ref. HA29N.313182: Local Authority Road Development. BusConnects Clongriffin to City Centre Core Bus Corridor Scheme. Approved by the Board 08/01/2024.

Ref. KA29N.313279: Local Authority Road Compulsory Purchase Order. Clongriffin to City Centre Core Bus Corridor Scheme Compulsory Purchase Order 2022. Board Confirmed CPO without modifications 08/01/2024.

5.0 **Policy Context**

5.1. **Development Plan**

The site is zoned Z1 Sustainable Residential Neighbourhoods.

Policies QHSN6 Urban Consolidation, QHSN44 Build to Rent/Student Accommodation/Co-living Development and QHSN45 Third-Level Student Accommodation. Policy QHSN45 states: *“To support the provision of high-quality, professionally managed and purpose-built third-level student accommodation in line with the provisions of the National Student Accommodation Strategy (2017), on campuses or in appropriate locations close to the main campus or adjacent to high-quality public transport corridors and cycle routes, in a manner which respects the residential amenity and character of the surrounding area, in order to support the*

knowledge economy. Proposals for student accommodation shall comply with the 'Guidelines for Student Accommodation' contained in the development standards chapter. There will be a presumption against allowing any student accommodation development to be converted to any other use during term time."

Section 5.5.7 Specific Housing typologies – Provision of Student Accommodation

Sections 6.5.6 Key Economic Sectors–Tourism, Hotels and Events, 15.13.1.5

Temporary Use as Tourist Accommodation, and Policies CEE26 Tourism in Dublin, CEE28 Visitor Accommodation, CEE32 Education and the City Economy

Chapter 9 Sustainable Environmental Infrastructure and Flood Risk

Sections 15.8 Residential Development, 15.13 Other Residential Typologies, 15.13.1 Student Accommodation, 15.13.1.1 Unit Mix, 15.13.1.2 Daylight and Sunlight, 15.13.1.3 Communal Facilities, and 15.13.1.4 Car Parking/Bicycle Parking. Table 15-8 Communal Requirements for Student Accommodation Clusters.

Section 15.13.1.1 states: *"Student accommodation is typically provided on a 'cluster' type model comprising of a group of bedrooms and a shared kitchen / living/ dining space. A minimum of 3 bed spaces with an overall minimum gross floor area of 55 sq. m. up to a maximum of 8 bed spaces and a maximum gross floor area of 160 sq. m. shall be provided in any 'cluster' of student accommodation units."*

Section 15.13.1.1 also states that: *"All applications for student accommodation must be accompanied by documentation outlining how the scheme will be professionally managed including confirmation that all occupiers will be students registered with a third-level institution. Documentation must also outline how the scheme will support integration with the local community, through its design and layout. Permissions for student housing will be subject to a condition requiring a planning permission for a change of use to other types of residential accommodation."*

Section 15.13.1.3 Communal Facilities states: *"Communal facilities and services which serve the needs of students shall be provided both internally and externally within a scheme ... The provision of indoor communal space can be broken down to indoor amenity spaces such as cinema rooms, study rooms, games rooms etc. and indoor services such as laundry facilities, caretaker/ security and refuse facilities etc. Where accommodation is provided on-campus, communal facilities will be assessed on a case-by-case basis having regard to the level of and access to on campus*

amenity. Details are to be provided as part of the application. All proposals must provide appropriate indoor and outdoor communal and recreational facilities for students at a combined level of at least 5-7 sq. m. per bedspace. In addition, shared kitchen/living/dining rooms shall be provided within each student cluster, based on a minimum 4 sq. m. per bed space. This is in addition to any circulation space and communal space provided”.

Appendix 1 Housing Strategy. Section 7.2.3 Specialist Provision Support from Dublin City Council – ‘Students’

Appendix 5 Transport and Mobility: Technical requirements incl. Section 2.4 Service Delivery and Access Strategy and Tables 1 & 2

I note Policy QHSN45 refers to “Guidelines for Student Accommodation” in the development standards chapter, however there is no such section titled.

5.2. National guidelines and strategies

Sustainable Residential Development & Compact Settlements 2024

National Student Accommodation Strategy 2017

Design Manual for Urban Roads & Streets (DMURS) 2019

Urban Development and Building Heights Guidelines for Planning Authorities 2018

Planning System & Flood Risk Management Guidelines 2009

Sustainable Residential Development in Urban Areas 2009

5.3. Natural Heritage Designations

South Dublin Bay and River Tolka Estuary SPA (c.2.6km) and North Bull Island SPA and North Dublin Bay SAC (c.2.8km)

5.4. Environmental Impact Assessment screening

- 5.4.1. Having regard to the nature and scale of the proposed development of a 30 no. bed room student accommodation building, the location in a serviced area, and to the criteria set out in Schedule 7 of the Planning & Development Regulations 2001, as amended, I consider that 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 and a screening determination is not required. (See Form 1 & 2 Appendix 1).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. One first party appeal was received and is summarised as follows:

- Student accommodation is open for consideration in this area, and supports development plan objectives to provide for students and educational services. Proposal can reduce demand for accommodation in the private rental sector;
- Daylight / sunlight studies were previously carried out for similar developments of 2/3 storeys on site, and were deemed acceptable;
- DCC previously confirmed 2/3 storeys would be acceptable and would not result in an overbearing and obtrusive appearance;
- No overlooking will occur to the north. Part of all upper floor windows may be obscure glazing. Only some glazing will be obscure, not the entire façade. Glazing up to 1.8m would be very lightly obscured; the remaining upper glazing would be transparent. Appeal states that there will be directly opposing overlooking between the proposal and Mount Dillon Court;
- Accommodation will substantially accord with Policy QHSN45 and will make a positive contribution to the built environment;
- This is a small-scale development. The site is within 100m of a QBC/BusConnects Core Bus Route, 5.5km from O'Connell bridge and 4.6km from DCU. Development plan notes the clustering of facilities within 1km of larger third level institutions. Proposal is within walking/cycling distance of most third level institutions. Student accommodation here is appropriate;
- Drainage division had no objection subject to agreement on surface water;
- Air quality & noise – The Environmental Health Officer has no objection;

- Roads & Traffic – The Department generally has no objection subject to further parking provision, and accepted the site is ideally located for students;
- Students can access a range of facilities including washing machines/dryers and rest/relaxation areas which are more than adequate. There is no need for a cinema as there are several in the area and the units will have WiFi;
- The bedrooms are the same as thousands granted in DCC. DCC is discriminating under the Equal Status Act in favour of large-scale corporate developers. The rooms and common areas will be fitted to A1 standard;
- Once permission is granted arrangements for managing units will be ironed out. There is interest from DCU & TUD;
- Given the scale of development granted at Chanel College, 3-storeys is not out of place. Applicant is open to scaling down the building through a part basement and/or reduction of part/all of the upper floor, which would reduce the number of units by ten. External wall finishes can be further agreed;
- Proposes to reduce height from 3 floors to 2, or create a lower ground floor to eliminate overlooking/overbearance. This and landscaping will protect neighbouring amenity.

6.2. Planning Authority Response

6.2.1. Response requests Board uphold decision to refuse, and should permission be granted, standard contribution, bond and naming & numbering conditions be applied.

6.3. Observations

6.3.1. Three observations were received by the Board, summarised as follows:

6.3.2. Darren Tighe, prepared by their planning consultant:

- Proposal is overdevelopment which will overbear, overshadow and overlook private amenity space of adjacent dwellings and should be refused;
- Proposal is similar to that refused under Ref. 3622/20 in terms of height and proximity to neighbouring dwellings, but now a roof terrace is proposed;

- There is no management plan, plan for integration with the local community, or service delivery & access strategy which the development plan requires;
- Scale / density is inappropriate. It will result in a substantial loss of amenities and privacy. It is too close to adjacent dwellings. Impacts cannot be mitigated;
- Proposal is incongruous, out of character and will have negative visual impacts;
- Public transport is not adequate. There are no colleges/universities in walking distance. Proposal is inconsistent with required car & cycle parking provision;
- Proposal does not provide adequate open space, amenities or facilities. There is a distinct lack of indoor amenity space. Proposal exceeds development plan maximum number of bedrooms per cluster;
- The obscure glazing would result in insufficient light penetration and aspect for proposed units, particularly as they are single aspect;
- The roof garden/terrace is improper/unsuitable to overlook elderly neighbours. The screening is 1.5m in height and does not mitigate overlooking in any way;
- A daylight / overshadowing assessment is not provided. Proposal would have significant to profound overshadowing, in particular Brookville House, and Nos. 106, 108 and 110 Ardbeg Park and Nos. 7, 8, 9, 10 and 11 Brookville Park;
- Proposed open space at ground level would be dark, narrow and unsuitable;
- Antisocial behaviour associated with student accommodation poses a threat to residential amenity, including noise and light pollution;
- The above means the proposal contravenes the development plan and zoning objective on grounds of impact on amenities;
- Proposal would devalue property in the area;
- There are no drainage plans. There are drainage issues along the access;
- Access – Observer states they own part of the access lane. They state their property boundary extends beyond the laneway wall into the lane. They state the applicant is claiming the observer's land. Observer has not given consent for use of this laneway as access to the proposed development;

- Observer states the Brookville Park laneway entrance is very narrow and incapable of accommodating two vehicles at once. The entrance is 3.4m wide which is below the 5.5m required in DMURS. The remaining laneway is also below the required width, being only 5.5m at maximum;
- Pedestrian footpaths are to be 1.8m wide according to DMURS. If pedestrian access is proposed the entrance would leave only 1.6m at the entrance, and would be unsuitable for emergency, refuse or private vehicles;
- Development plan states residential development shall have adequate access for emergency & refuse vehicles. Proposed access is inadequate in this regard;
- Proposal would cause serious traffic safety hazard;
- The proposed parking would cause a lot of noise & nuisance to adjacent dwellings. There is no right turn onto Malahide Road which is very restrictive;
- There is a range of species living in the hedge on the laneway. An Environmental Impact Assessment could be required;
- Development is not comparable to other developments in the area including Ref. 3301/19 'Chanel College lands'.

6.3.3. Maryfield Artane Residents Association:

- Water and drainage – Brookville Park and Ardbeg Road have experienced flooding, drainage and sewerage issues. Proposal will place further pressure on the system. Proposal does not include substantive improvements to water drainage infrastructure and could cause health & safety issues;
- Public transport – Proposal is linked to a main transport artery. Dublin Bus is already struggling. Many buses are full. Transport infrastructure is not able to accommodate students. There are no jobs for students in Artane;
- There is a lack of health services in the area;
- Proposal is close to the busy Artane Roundabout and Malahide Road. The proposal will increase risk of accidents;
- The entrance / exit is narrow and will increase risk of accident;

- A lack of parking is proposed. There is already excessive parking from commuters on Brookville Park, which the proposal will increase;
- Emergency services specifically fire brigade struggle to gain access in the area;
- Neighbouring houses are two-storey, so the proposal is not in keeping.
Proposal will overbear 96 to 114 Ardbeg Park. Residents not overlooked may be impacted by noise from the roof garden. Sunlight will be blocked to gardens.

6.3.4. Mount Dillon Neighbours Group:

- Appeal lacks supporting documents to enable the Board to overturn the refusal;
- There are similar deficiencies to previous planning applications on the site;
- Application is deficient. Appeal does not include valid planning grounds. Appeal refers to amendments/reduction to the scheme but no documents are provided. Board cannot consider proposals for indeterminable changes without drawings;
- No plans for laundry & rubbish provided;
- Appeal does not address the lack of required amenity space in addition to kitchen & dining facilities;
- Site is not within walking distance of third level. No supporting documents from universities are provided;
- More details of drainage, air quality, noise, roads, and traffic are required;
- No management details are provided;
- Proposal is not substantially compliant with development plan requirements;
- There is no access for disabled students to upper floors;
- Emergency service, pedestrian, cycle and vehicle access/egress including for disabled users is not addressed;
- What purpose the premises will serve outside term-time is not stated;
- Proposal will cause overlooking, and would: have an overbearing and obtrusive appearance; impact natural light; and injure residential amenities. Proposal is incompatible with the character of the area and should be refused;
- Observation sets out details of National Student Accommodation Strategy;

- Adequate parking is not provided. The layout is unworkable;
- Site is a transitional zone. The rooms do not comply with development plan standards. Height is not compliant with the area. Obscure fenestration is not feasible and compromises student amenity. The communal space impacts adjoining neighbour amenity. Board cannot accept previous daylight studies on a different development;
- The height, size and proximity to low-rise dwellings will seriously injure residential amenity and devalue property. It materially contravenes development plan. There is no reason to overturn planning authority decision.

7.0 **Assessment**

7.1. Having regard to the foregoing; having examined the application, appeal and planning authority reports; having inspected the area within and around the site; and having regard to relevant adopted development plan policies and objectives, I consider the main issues in this appeal are as follows:

- Quality of student accommodation;
- Residential amenity;
- Related matters raised in the course of the appeal.

Quality of student accommodation

7.2. The site is zoned Z1 Sustainable Residential Neighbourhoods where student accommodation is open for consideration. I am satisfied the proposed use would be acceptable subject to the proposal being compatible with the policies and objectives for the zone, not having undesirable effects on the area, and otherwise being consistent with the proper planning and sustainable development of the area.

7.3. Development plan Section 15.13.1.3 'Communal Facilities' states that communal facilities and services which serve the needs of students shall be provided both internally and externally within the scheme. It states the provision of indoor communal space can be broken down to indoor amenity spaces such as cinema rooms, study rooms, games rooms etc. and indoor services such as laundry facilities, caretaker/ security and refuse facilities etc. It also states that all proposals

must provide appropriate indoor and outdoor communal and recreational facilities for students at a combined level of at least 5-7 sq. m. per bedspace. It states that in addition, shared kitchen/living/dining rooms shall be provided within each student cluster, based on a minimum 4 sq. m. per bed space, and that this is in addition to any circulation space and communal space provided.

- 7.4. Regarding shared kitchen/living/dining facilities within each cluster, the subject proposal would provide a common area comprising a kitchen/dining/living space for each cluster of 10 no. single beds. The space for each cluster measures c.45sqm; this is 5sqm (c.13%) above the minimum required for each cluster. This is acceptable in relation to shared kitchen/living/dining rooms within each cluster.
- 7.5. Regarding indoor and outdoor communal and recreational facilities, no indoor communal and recreational facilities are proposed, be that indoor communal space or indoor services and facilities. In this regard I note one observation to the Board refers to a lounge space proposed, however no such space is evident on the submitted plans. Considering the location, the primarily residential nature of the area, and the relatively low level of community and commercial spaces open to the public in the area, I consider the absence of indoor communal space to be unacceptable.
- 7.6. I note the applicant appears to provide surplus external communal space in lieu of internal communal space. The development plan requires 5 - 7sqm of indoor/outdoor communal and recreational facilities. The applicant states a total of 673sqm of open space is proposed. The proposed roof garden alone (c.167sqm) equates to 5.6sqm open space per bedspace. However I consider the additional provision of open space does not negate the need for indoor communal space. I also consider that the absence of indoor space would likely give rise to additional noise to the rear of existing dwellings, particularly from the proposed roof space.
- 7.7. Regarding open space design and layout, the proposal indicates open space provision is split between a roof garden (c.167sqm) and ground floor space around the building (506sqm). For student accommodation the development plan states that generally ground floor courtyards that achieve appropriate daylighting and sun lighting will be required, and that in certain circumstances terraces and roof gardens will be considered but only in addition to appropriate ground level amenity provision. The ground level space is generally around the building rather than a courtyard, and

includes seating, planting, and circulation. It is unclear if this includes parking and incidental space. I am satisfied the space to the east and west of the building would receive adequate sunlight, however no sunlight daylight analysis of the open space is provided. Overall I am satisfied the proposed open space is adequate.

- 7.8. Regarding the proposed accommodation, development plan Section 15.13.1.1 'Unit Mix' states that a maximum of 8 no. bed spaces and a maximum of gross floor area of 160 sqm shall be provided in any cluster of student accommodation units. It states consideration will be given to an increase in the number of bedrooms per cluster on campus locations. The subject site is not on a campus, and proposes 10 no. bedrooms comprising c.180sqm in each cluster, which exceeds the development plan upper limit. I note that no rationale for this requirement is given in the plan, however I consider that exceeding the stated limit would reduce the quality and residential amenity of the accommodation for occupants.
- 7.9. Regarding the proposed bed rooms specifically, the applicant indicates there are two types of rooms. Type A rooms are disabled rooms and are all at ground floor, whilst Type B rooms are non-disabled rooms and are all above ground. I note that all rooms are 18sqm, with the main difference between the two room types being the size of en-suite bathrooms. Study desks and storage are indicated. I note two Type B room layouts are shown, one being single bed and one being double bed. I consider the proposed rooms are acceptable.
- 7.10. Regarding the documentation submitted, I note development plan Section 15.13.1 'Student Accommodation' states all applications for student accommodation must be accompanied by documentation outlining how the scheme will be professionally managed including confirmation that all occupiers will be students registered with a third-level institution. Minimal documentation in this regard is provided. The appeal states that arrangements in this regard will be expedited after permission. I am satisfied these matters could be addressed by condition, however, the development plan also states that documentation must outline how the scheme will support integration with the local community through its design and layout. Given the absence of indoor communal space, the low level of community and commercial uses in the area, and the limited potential for the scheme to support integration with the local community on account of the site location, I consider the proposal has not satisfactorily addressed this issue within the design and layout.

- 7.11. I note that whilst no specific rationale for the above quantitative requirements is set out in the development plan, I am satisfied that in the interests of meeting student needs and providing high-quality student accommodation the above requirements are reasonable. In particular I consider the provision of indoor and outdoor communal space necessary in the Irish climate.
- 7.12. Overall, the above development plan requirements are clear. I consider the quality of student accommodation proposed is deficient having regard to development plan requirements, specifically in relation to the absence of indoor communal space, services and facilities, and also the overprovision of bed rooms within each cluster, and that this would provide for a poor quality of student accommodation having regard to relevant development plan requirements. I also consider the appellant has not demonstrated how the design and layout of the scheme will support integration with the local community, as required.

Residential amenity

- 7.13. Regarding overlooking and privacy, I am satisfied the proposal would not significantly overlook neighbouring windows or elevations. However, in relation to neighbouring private amenity spaces, the proposed eastern elevation is orientated directly toward the rear amenity spaces of No. 104 Ardbeg Park (c.7.5m away), and the proposed western elevation is orientated directly toward the rear amenity spaces of Nos. 2 – 5 Brookville Park (between c.6.5m and c.8.5m away).
- 7.14. To mitigate the potential for overlooking, the applicant proposes to use obscure glazing in some of these windows. The submitted information does not identify the windows to be obscured. The applicant states that part of all upper floor windows may consist of obscure glazing, and also that only some glazing units in the façade will have obscure glazing but not the entire façade. The appeal states that glazing up to 1.8m would be very lightly obscured with the remaining upper glazing would be clear, including the roof terrace glazing. I do not consider this is a satisfactory solution in this regard particularly as it would diminish internal student bed room amenity and outlook. In addition, I am not satisfied that alternative window design (eg. angled windows) would provide appropriate mitigation for dwellings to the east. I also consider that in the absence of any such mitigation in this regard the proposal

would have a significant detrimental impact in terms of overlooking the private amenity spaces of at least 5 no. dwellings to the east and west.

- 7.15. I also consider that the proposed roof terrace would create significant potential for overlooking of neighbouring dwellings to the south, east and west, noting in particular the proposed screen around this space would only be c.1.5m in height.
- 7.16. Regarding sunlight, daylight and overshadowing, No. 106 Ardbeg Park is directly to the north at a distance of c.3m. No. 104 Ardbeg Park is c.7.5m to the west and the proposed building would extend almost the full length of the rear garden of that dwelling. The rear private amenity spaces of Nos. 2 – 5 Brookville Park are c.6.5m and c.8.5m away. No assessment of impacts in these regards is provided with the application. I am satisfied the proposal would have a significant detrimental impact on access to sunlight and daylight to these adjacent dwellings to the north and west.
- 7.17. In this regard, the appellant states that daylight / sunlight studies were undertaken for previous proposals on the site. I note a shadow analysis only was submitted as part of Reg. Ref. 2427/17. I consider there are significant differences in the height, layout, orientation and form of the current and previously proposed buildings such that the previously submitted information is not valid in relation to the subject case.
- 7.18. Regarding overbearance, as set out above the proposed building would be c.7.5m from the party boundary of No. 104 Ardbeg Park to the west, and would be c.3m from No. 106 Ardbeg Park to the north. Considering the height, form and proximity and the proposed building in relation to these dwellings I am satisfied the proposal would have a significant overbearing impact on these dwellings, and to a lesser extent Nos. 102 and 108 Ardbeg Park further to the west and north respectively.
- 7.19. I note as part of the appeal the applicant proposes to reduce the height of the development however no specific details in this regard are provided. I consider that such material revision would not be achievable by condition.
- 7.20. In relation to noise, I consider the proposed roof terrace could have a significant detrimental impact on the residential amenities of neighbouring dwellings as a result of noise, particularly in relation to dwellings to the south, east and west. In this regard I note the height of the proposed perimeter screen would be c.1.5m which would not provide for adequate mitigation of noise. Overall I do not consider the proposed roof space would protect existing neighbouring residential amenities.

- 7.21. Overall regarding residential amenity, I consider the proposal would not provide for an acceptable level of residential amenity for occupants on grounds of natural light and outlook, and would have a significant detrimental impact on the amenities of neighbouring dwellings in terms of natural lighting, noise and overbearance.

Related matters raised in the course of the appeal

Access

- 7.22. The existing access is a narrow, single lane access measuring c.49m in length. There is a hedge and planting on one side such that the current useable width is between c.3.4 and 4.2m. The proposed works to the lane comprise clearance of the hedge and planting to increase the useable width to between c.3.8m and c.5.1m, except for at the proposed gate where the width would be c.3.4m. The proposed access would remain single width and would have no footpath or verge.
- 7.23. A heavy service vehicles swept path analysis is submitted. It indicates that with the proposed works to the access such vehicles could access and turn within the site.
- 7.24. The planning authority roads planning division recommended further information requiring the applicant to demonstrate the laneway was sufficient for service vehicles, and to submit a service delivery & access strategy. The division also recommended further information for the applicant to confirm whether they had full control of the lands required for the proposed access works.
- 7.25. In this latter regard I note the claim made in observations to the Board from Darren Tighe regarding ownership of part of the lane along the western side, however no supporting evidence is provided. The submitted appeal does not address this matter.
- 7.26. For completeness I note commentary in the planning authority roads division report indicated there is space along the laneway for two cars to pass. It is clear however this is not the case for the existing or proposed access.
- 7.27. Whilst the existing access is in use by vehicles, I consider that a change from the existing commercial use to a 3-storey, higher-density residential use is significant having regard to the likelihood of emergency services being required to access the site, and the ability of emergency services including fire and ambulance to gain sufficient access. In this regard I do not consider sufficient information has been

provided demonstrating how the proposal would be served by emergency and service vehicles, including fire tender and refuse collection.

- 7.28. I consider that further design details and operational management proposals are required in this regard, including to ensure emergency and service vehicles can gain sufficient access to the site, and in relation to the safety of pedestrians, cyclists and disabled users. I consider that further details and proposals in this regard are required, however that refusal on these grounds is not warranted.

Drainage

- 7.29. I note that virtually the entire site is currently occupied by buildings or laid out in hardstanding. Whilst minimal drainage details are provided, the proposed grassed areas could provide for improved discharge rates and overall surface water management arrangements on the site.
- 7.30. I do not concur with the appellant characterisation that the planning authority drainage division generally had no objection subject to agreement, noting that the drainage division recommended further information on a number of matters, including a requirement for flood risk assessment. However, having regard to the potential of these matters to be addressed subject to further information being provided, I am satisfied that refusal on these grounds is not warranted.
- 7.31. In relation to flood risk assessment specifically, I note points made in observations to the Board regarding flooding in the area. I note the Board granted permission for residential development at the site under Ref. ABP-300574-18. I also note flood risk was not a reason for refusal in appeal Ref. ABP-309280-21. In the subject case the planning authority drainage section recommended further information for submission of a site-specific flood risk assessment. I have reviewed the site history which indicates evidence of localised flooding relating primarily to specific nearby drains during heavy rainfall. The site is in flood Zone C and is a significant distance from Zones A or B. Publicly available Office of Public Works data indicates no evidence of significant flood risk or flood events in the area, with the exception of an historical event (1950's) to the south. I note the existing levels on the site and surrounding area, and the lack of significant change in this regard proposed as part of the development. Having regard to the foregoing, and noting the content of previous site specific flood risk assessments undertaken for the site, and the nature of reported

flood issues in the area, whilst I consider that further consideration of this matter within the design is warranted, I am satisfied refusal on these grounds is not.

8.0 **Appropriate Assessment screening**

- 8.1. I have considered the proposed student accommodation development in light of the requirements of Section 177U of the Planning & Development Act 2000 as amended. The subject site is not located within or adjacent any European Site designated SAC or SPA. The closest European site, part of the Natura 2000 Network, is the South Dublin Bay and River Tolka Estuary SPA located c.2.6km from the proposed development. The proposed development is located in a suburban area and comprises construction of a 30 no. bed room student accommodation building. No significant nature conservation concerns were raised as part of the appeal. Having considered the nature, scale and location of the development I am satisfied it can be eliminated from further assessment as there is no conceivable risk to any European Site. The reason for this conclusion is the nature of the building and its location in a serviced suburban area, served by mains drainage, the distance to any European Sites, and the urban nature of intervening habitats and absence of ecological pathways to any European Site. I conclude that on the basis of objective information the proposed development would not have a likely significant effect on any European Site(s) either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment Stage 2 under Section 177V of the Planning & Development Act 2000 as amended is not required.

9.0 **Recommendation**

- 9.1. I recommend permission be **Refused** for the reasons and considerations below.

10.0 **Reasons and Considerations**

1. The proposed development, by reason of its design and layout, including deficiencies in the provision of indoor communal space, services and facilities; the overprovision of bed rooms; and the lack of required documentation including information as to how the design and layout of the scheme would support integration with the local community, would not provide satisfactory levels of amenity for future

occupants and would not be consistent with Policy QHSN45 'Third Level Student Accommodation' or Section 15.13.1 Student Accommodation of the Dublin City Development Plan 2022-2028.

2. The proposed development would seriously injure the residential amenities of dwellings adjacent to the north, south, east and west by reasons of overlooking, noise and overbearance. It is also considered the development would not provide an adequate level of internal residential amenity for occupants on grounds of outlook and access to natural light. The proposed development would, therefore, be contrary to the Z1 'Sustainable Residential Neighbourhoods' land use zoning for the area where the objective is to protect, provide and improve residential amenities.

-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.-

D. Aspell
Inspector
26th July 2024

APPENDIX 1

Form 1 EIA Pre-Screening [EIAR not submitted]

| | | | |
|---|---|--|---|
| An Bord Pleanála Case Reference | | 317449-23 | |
| Proposed Development Summary | | Demolition of buildings and construction of a three-storey student housing building comprising 30 no. units. | |
| Development Address | | Mount Dillon Business Park / Commercial Yard, Brookville Park, Malahide Road, Artane. | |
| 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 X 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) and does it equal or exceed any relevant quantity, area or limit where specified for that class? | | | |
| Yes | X | 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) |
| No | | N/A | No EIAR or Preliminary Examination required |
| Yes | X | Class/Threshold..... | Proceed to Q.4 |
| 4. Has Schedule 7A information been submitted? | | | |
| No | X | Preliminary Examination required | |
| Yes | | Screening Determination required | |

Inspector: _____

Date: __24th July 2024__

Form 2
EIA Preliminary Examination

| | | | |
|--|--|--------------------------|---------------------------------|
| An Bord Pleanála Case Reference | 317449-23 | | |
| Development Summary | Demolition of buildings and construction of a three-storey student housing building comprising 30 no. units. | | |
| Examination | | | Yes / No / Uncertain |
| 1. Is the size or nature of the proposed development exceptional in the context of the existing environment? | | | No |
| 2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants? | | | No |
| 3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location*? | | | No |
| 4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area? | | | No |
| Comment (if relevant) | | | |
| Conclusion | | | |
| Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment **? | | | |
| There is no real likelihood of significant effects on the environment | EIAR not required | Yes | |
| There is significant and realistic doubt in regard to the likelihood of significant effects on the environment | Screening Determination required | No | |
| | Sch 7A information submitted? | <input type="checkbox"/> | No |
| There is a real likelihood of significant effects on the environment | EIAR is required (Issue notification) | No | |

Inspector _____ **Date:** 24th July 2024 _____

DP/ADP _____ **Date:** _____

(only where EIAR/ Schedule 7A information is being sought)