



An
Bord
Pleanála

Inspector's Report

ABP-318143-23

Development

Construction of a house

Location

(a) Site bounded by Anglesea Lane, Corrig Avenue and entrance drive into Corrig Court and (b) further site within the grounds of Corrig Court, Corrig Avenue, Dun Laoghaire, Co. Dublin

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D23A/0484

Applicant(s)

Conor McCabe

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal

First Party

Appellant(s)

Conor McCabe

Observer(s)

Clíodhna Ferris

Date of Site Inspection

3rd May 2024

Inspector

Frank O'Donnell

1.0 Site Location and Description

- 1.1. The subject appeal site is located on the western side of Corrig Avenue, Dun Laoghaire, within c. 40 metres to the south of its intersection with George's Street Upper. The appeal site comprises 2 no. parcels (parcels A & B). Parcel A to the east is estimated to have a site area of 48 sqm, comprises an overgrown triangular piece of ground and has a maximum length of c. 12.8 metres and a maximum width of c. 4.8 metres. Parcel A is bounded to the north by a high natural stone wall along Anglesea Lane, to the south by No. 1 Corrig Avenue and an associated footpath and access road serving 6 no. two storey dwellings to the rear (Corrig Court), to the east by Corrig Avenue and to the west by no. 1 (including no. 1A) Anglesea Lane, a commercial unit. Parcel B, which is separate to Parcel A, is positioned c. 9.7 metres to the west, behind an Archway and barrier-controlled entrance to Corrig Court. Parcel B comprises 2 no. car parking spaces and is estimated to measure 21.5 sqm in area. Anglesea Lane is characterised by two/ three storey commercial units on its southern side and the rear of predominantly commercial units on its northern side, which face north-west onto Georges Street Upper.
- 1.2. The adjacent dwelling to the south, No. 1 Corrig Avenue, is listed as a Protected Structure, ref. 913.

2.0 Proposed Development

- 2.1. The Proposed Development comprises the following:

Parcel A

- The construction of a one bedroom, two storey/ part three storey detached dwelling with a stated gross floor space of 88 sqm and a maximum overall height of 9.8 metres on a site area of 48 sqm. An 8.1 sqm roof terrace is proposed at second floor level.
- The site was previously approved as amenity space under planning reg. ref. no. 451/90 and is stated to have measured 34.5 sqm in extent.

Parcel B

- Parcel B comprises 2 no. car parking spaces. The proposals are to provide a replacement area of amenity open space measuring 21.5 sqm, in lieu of the permitted amenity space on Parcel A, as per planning reg. ref. no. 451/90.
- The Applicant refers in the development description set out in the public notices to a proposal to transfer 1 no. car parking space. This proposed transfer or reallocation of the said 1 no. car parking space does not form part of the proposed development, as it is not contained within the defined red line site boundary. The Applicant refers to a combined total area of 35.5 sqm for the proposed open space and the 1 no. car parking space proposed to be transferred within the Corrig Court development on land previously designated as commercial car parking.

Other Works

- Additional works are stated to include the re-location of existing water main on private access road (1 Corrig Avenue and Corrig Court, subject land in ownership of applicant),
- New connections to public water main, public sewer, rainwater harvesting and public utilities.
- All associated site and service connections works, and site clearance works to include re-instatement of existing private road pathway, where necessary.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority issued a decision to Refuse permission for the following reasons:

1. *Having regard to the scale, bulk and massing of the proposed dwelling, its site layout, proximity to site boundaries and orientation within the site, the proposed development is over-scaled, would represent over-development of the site, and would adversely impact on the visual amenities of the area and streetscape, by reason of overly prominent appearance and would*

provide a poor level of amenity for future residents of the proposed dwelling. It is therefore considered that the proposed development would not accord with Sections 12.3.7.5 Corner/ Side Garden Sites; 12.3.7.7 Infill and Section 12.8.3.3. Private Open Space (i) Private Open Space for Houses and would therefore fail to comply with the zoning objective 'A' – 'To protect and/ or improve residential amenity' set out within the Dun Laoghaire-Rathdown County Development Plan, 2016-2022, would seriously injure the amenities and depreciate the value of property in the vicinity. Furthermore, the proposal would set a poor precedent for similar type development in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- 2. Having regard to the information submitted with the planning application and noting in particular the planning history of the site in which the site formed part of a landscaped open space that was required by condition to be retained in private ownership and maintained by a property management company as part of a permitted development that included seven no. two-storey houses, approved under planning register reference 451/90, and in the absence of sufficient justification to replace the permitted open space with a dwelling house, that would occupy Parcel 1 of the subject site, it is considered that the implementation of the development would contravene materially the conditions, namely Condition 1 and Condition 6, and particulars attached to the stated existing permission, and considered ultra virus with regards to the said stated underlying planning permission and therefore would also not accord with the zoning 'A' objective 'to provide residential development and improve residential amenity while protecting the existing residential amenities', as provided for in the Dun Laoghaire-Rathdown County Development Plan 2022 – 2028/ in respect of the existing residential amenities.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Local Authority Planner** in respect of Parcel A considers that the site is located at a prominent location at the junction of Corrig Avenue and Anglesea Lane and that having regard to the proposed scale, bulk and massing of the proposed dwelling, its site layout, proximity to site boundaries and orientation within the site, the proposed development is over-scaled, would represent over-development of the site, and would adversely impact on the visual amenities of the area and streetscape, by reason of overly dominant appearance, and would provide a poor level of amenity for future residents of the proposed dwelling. The Local Authority Planner therefore considered that the proposed development would not accord with Sections 12.3.7.5 Corner/ Side Garden Sites, Section 12.3.7.7 Infill and Section 12.8.3.3 Private Open Space (i) Private Open Space for Houses and would therefore fail to comply with the zoning objective 'A' – *'To protect and/ or improve residential amenity'* set out in the Development Plan and would seriously injure the amenities and depreciate the value of property in the vicinity. The Local Authority Planner further considered that the proposal would set a poor precedent for similar type development in the area and would therefore be contrary to the proper planning and sustainable development of the area.
- The Local Authority Planner considered, notwithstanding the above, that having regard to the information submitted with the planning application, and noting, in particular the planning history of the site in which the site formed part of a landscaped open space that was required by condition to be retained in private ownership, and maintained by a property management company, as part of a permitted development, that included seven no. two storey houses approved under planning reference 451/90 and also in the absence of sufficient justification to replace the permitted open space with a dwelling house that would occupy Parcel 1 of the subject site; it is considered that the implementation of the development would be considered ultra vires with regards to the underlying planning

permission, and therefore would not accord with the zoning 'A' objective 'to provide residential development and improve residential amenity while protecting the existing residential amenities', as provided for in the Development Plan in respect of the existing residential amenities.

3.2.2. Other Technical Reports

- The **Transportation Planning Section** recommend that a Request for Further Information be issued as follows:
 1. *Transportation Planning consider that the proposed hanging bike rack on the back of the external store door is not acceptable secure, covered resident cycle parking provision for the proposed one bed house, and would question whether even one bicycle could be so accommodated in that it would also not be considered acceptable for the door to open onto the adjacent footway. Therefore, the Applicant is requested to submit, by way of Further Information, revised/ additional drawings/ details demonstrating the provision of a minimum of 2 No. secure, covered long stay (resident) cycle parking spaces and a minimum of 2 No. short stay (visitor) cycle parking spaces. In addition, it is not considered acceptable for bicycles to have to be brought through the dwelling.*
 2. *The Applicant is requested to submit, by way of Further Information, a Construction Management Plan indicating measures to deal with:*
 - a) *How it is intended to avoid conflict between construction traffic/ activities and traffic/ road users, particularly pedestrians and cyclists, on Corrig Avenue, Anglesea Lane, and the entrance drive into Corrig Court, and the surrounding local road network.*
 - b) *Traffic Management Plan, including construction vehicular access to site in particular, to avoid conflict between construction traffic/ activities and traffic/ road users on Corrig Avenue, Anglesea Lane, and the entrance drive into Corrig Court, and the surrounding local road network.*

- c) *An access route to site for construction traffic/ vehicles to be agreed with DLRCC Traffic Section, Infrastructure and Climate Change Department.*
- d) *Where it is intended to provide for site staff car parking during construction in that it is not acceptable to have illegal/ uncontrolled parking on the adjacent residential and local roads.*
- e) *How it is intended to provide for construction delivery vehicles.*
- f) *How/ where it is intended to provide a site compound for materials storage and staff welfare facilities.*
- g) *Proposed measures to minimise/ eliminate nuisance caused by noise and dust, proposed working hours and measures to minimise/ prevent transfer of dirt to the public road with associated measures to minimise/ prevent transfer of dirt to the public road with associated measures to clean the public roads / gully's etc in the vicinity of the site and continuing replacement of roads line markings resulting therefrom.*
- h) *A procedure for dealing with complaints arising from third parties during the construction process.*

- The **Drainage Planning Municipal Services Department** raise no objection to the proposed development subject to 3 no. conditions.

3.3. **Prescribed Bodies**

- Uisce Eireann: No objection subject to 3 no. conditions.

3.4. **Third Party Observations**

3.4.1. A total of 4 no. Third Party Observations were received from surrounding owners and residents of Corrig Court, as follows:

- Emily Brannelly
- Cliodahna Ferris
- Roy & Rosemaire Brown

- Carol Campbell

3.4.2. The issues raised in the 4 no. Third Party Observations include the following:

- Over-Development, Poor/ Undesirable Precedent, Negative Planning History (see planning reg. ref. no's D22A/0332 & D21A/0399 (ABP-311842-21), Car Parking Allocations/ Loss of Car Parking, Depreciation in Property Values, net reduction in Public Open Space by 13 sqm, Material Conflict with Condition no. 6 of planning reg. ref. no. 451/90, Failure to achieve Development Plan Standards (Section 12.3.7.5 – Corner Sites – in terms of Private Open Space and Adequate Car Parking), Negative Impact on the Character and Setting of the adjacent row of Protected Structures, Inappropriate Building Line, Inaccurate 3D Images, Profoundly Negative and Incongruous Impact on the Streetscape, Removal of an overgrown area of the site is not justification for the proposed development, Excessive Scale, Mass, Bulk, Over-Prominence, Overbearing, Overshadowing and Overlooking, Contrary to Section 12.3.7.7 (Infill) and 12.8.3.3 (Private Open Space) of the Development Plan.

4.0 Planning History

4.1.1. Planning History

On the subject Appeal Site

- **V/047/23:** Exemption Certificate from the Provisions of Section 96 of the Planning and Development Act 2000, as amended, GRANTED on 07th July 2023.

On the subject Appeal site and adjacent lands

- **D22A/0332:** Permission for the construction of a part 2 storey/ part 3 storey dwelling and associated site works. Permission was REFUSED on 06th July 2022 for the following reasons:
 1. *The application site is within a limited site within a larger landholding in Dun Laoghaire town centre. Having regard to the scale, bulk and massing of the proposed dwelling, its site layout, close proximity to site boundaries, and limited quantum and quality private open amenity space, the proposed development is over-*

scaled, would represent overdevelopment of the site, and would adversely impact on the residential and visual amenities of the surrounding properties, area and streetscape, by reason of overly prominent appearance and would provide a poor level of amenity for future residents of the proposed dwelling.

It is therefore considered that the proposed development would not accord with Section 12.3.7.5 Corner/ Side Garden Sites, Section 12.3.7.7 Infill, and Section 12.8.3.3 (i) Private Open Space and would therefore fail to comply with the zoning objective 'A' – 'to provide residential development and improve residential amenity while protecting the existing residential amenities' as set out within the Dun Laoghaire-Rathdown County Development Plan, 2022-2028, and would seriously injure the amenities and depreciate the value of property in the vicinity. Furthermore, the proposal would help set a poor precedent for similar type development in the area. The proposed development, would therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the Objective A zoning of the subject site, and to the nature of the proposed enclosing of one of the existing footpaths, it is considered that this proposed element of the development would adversely impact on the existing residential amenities, and would be contrary to the zoning, would not be in accordance with relevant policy and the provisions of the Dun Laoghaire-Rathdown County Development Plan 2022-2028. This element of the proposed development would, therefore, not be in accordance with the proper planning and sustainable development of the area.

- **D21A/0681 (Appeal Ref. No. ABP-311668-21):** Permission for construction of 1 no. three storey dwelling and all associated site works. Permission was REFUSED on 25th August 2022 for the following reason:

1. Having regard to the information submitted with the planning application and appeal and noting in particular the planning history

of the site in which the site formed part of a landscaped open space that was required by condition to be retained in private ownership and maintained by a property management company as part of a permitted development that included seven no. two storey houses and in the absence of sufficient justification to replace the permitted open space with a dwelling house that would occupy the entire area, it is considered that the development would not accord with the zoning 'A' objective 'to provide residential development and improve residential amenity while protecting the existing residential amenities', as provided for in the Dun Laoighaire-Rathdown County Development Plan 2022 – 2028 in respect of the existing residential amenities. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board noted the planning history pertaining to the site in which the site was identified as a landscaped open space as part of a permitted development that included seven no. two storey houses. The Board considered that there was insufficient justification presented with the application and appeal to justify its removal and in the absence of sufficient justification to replace the permitted open space with a dwelling house that would occupy the entire area, considered that the development would not accord with the zoning 'A' as provided for in the Dun Laoghaire-Rathdown County Development Plan 2022-2028 in respect of the existing residential amenities. The Board considered that the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- **D21A/0399 (Appeal Ref. no. 311842-21): PROTECTED STRUCTURE:**
Permission for development works to include repair, restoration and painting of all facades and other associated site services and remedial works. Permission was GRANTED on 17th August 2022. ABP Directed the Local Authority to omit Condition 2 a) regarding the on-site examination and sampling of the rendering

mortars on the exterior of the building, which has identified that the existing render is not original to the Protected Structure.

- **D18A/0002:** Permission for Change of Use from commercial office to residential dwelling. (A protected structure). Permission was GRANTED on 17th May 2018 subject to 7 no. conditions.
- **451/90:** Permission for a change of use from flats to 554 sqm offices and proposed seven townhouses and restoration of arch. Permission was GRANTED subject to conditions.

Condition no. 6 states:

The proposed grouped car parking areas, access road, pathways and landscaped areas within the development shall be retained in private ownership and maintained by a property constituted management company. Details of the management agreement shall be submitted to the Corporation for agreement prior to the commencement of development.

Reason: To ensure the protection of amenities.

5.0 Policy Context

5.1. Dun Laoighrie Rathdown Development Plan, 2022 to 2028

- 5.1.1. The subject site is zoned 'Objective A' in the Dun Laoghaire County Development Plan 2022-2028. The relevant zoning objective for Objective A zoned lands is: '*to provide residential development and improve residential amenity while protecting the existing residential amenities.*' Residential development is 'Permitted in Principle' under this zoning objective.
- 5.1.2. Chapter 4: Neighbourhood – People, Homes and Place.
- 5.1.3. Chapter 5: Transport and Mobility
- 5.1.4. Chapter 11: Heritage and Conservation
 - Section 11.4 Architectural Heritage
 - 11.4.1 Record of Protected Structures
 - Policy Objective HER7: Record of Protected Structures

- Policy Objective HER8: Work to Protected Structures
- Policy Objective HER9: Protected Structures Applications and Documentation
- Policy Objective HER20: Buildings of Vernacular and Heritage Interest
- Policy Objective HER21: Nineteenth and Twentieth Century Buildings, Estates and Features

- 5.1.5. Chapter 12 of the Plan relates to Development Management Standards. Section 12.3.1 of the Plan relates to Quality Design. Section 12.3.3 relates to Qualitative Standards for All Residential Development. Section 12.3.4 relates to Residential Development – General Requirements (Section 12.4.2 Habitable Rooms, 12.3.4.7 Refuse Storage and Services). Section 12.3.5 relates to Apartment Developments. Section 12.3.7 of the Plan relates to Additional Accommodation in Existing Built-Up Areas and includes Section 12.7.3.5 (Corner/ Side Garden Sites), Section 12.3.7.7 (Infill), 12.3.7.9 (Mews Lane Development).
- 5.1.6. Section 12.4 relates to Transport and includes Section 12.4.1 Traffic Management and Road Safety, 12.4.5 Car Parking Standards and 12.4.6 Cycle Parking.
- 5.1.7. Section 12.8 of the Plan relates to Open Space and Recreation and includes Section 12.8.2 Open Space Categories for Residential Development, Section 12.8.3 Open Space Quantity for Residential Development (Section 12.8.3.1 Public Open Space, Section 12.8.3.2 Communal Open Space and Section 12.8.3.3 Private Open Space), Section 12.8.5 Public Open Space – Quality (12.8.5.1 Design, 12.8.5.2 Accessibility, 12.8.5.3 Communal Open Space – Quality), Section 12.8.7 – Private Amenity Space – Quality Standards (Section 12.8.7.1 Separation Distances, 12.8.7.2 Boundaries), Section 12.8.8. Financial Contributions in Lieu of Open Space, Section 12.8.11 Existing Trees and Hedgerows.
- 5.1.8. Chapter 13 relates to Land Use Zoning Objectives.
- Section 13.1.2 relates to Transitional Zonal Areas

5.1.9. Guidelines

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024
- Design Manual for Urban Streets and Roads, 2019
- Urban Development and Building Heights - Guidelines for Planning Authorities, 2018
- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes, Sustaining Communities (DEHLG, 2007).

5.2. Natural Heritage Designations

- 5.2.1. The appeal site does not form part of, nor does it adjoin, nor is it located within close proximity to any designated Natura 2000 site.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest sensitive location, 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.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The Grounds of Appeal are summarised as follows:

- Pre-Planning Discussions: Reference is made to the pre-planning discussions were held in 2019 and to apply the Design Standards for New Apartments. The proposals have instead been assessed as on 'house' development standards. The proposals will not satisfy minimum private open space requirements for houses but will satisfy Apartment standards for 1 bed unit. Many positive aspects of the proposed development were highlighted. There is an inconsistent approach between pre-planning, the first application and the current planning application.
- Compliance with Development Plan Standards for Residential Development:
 - Private Open Space: The proposed patio area presents a more than acceptable level of amenity for future residents. It is disproportionate to refuse permission on the grounds that the private open space is below the Development Plan Standard. This should not outweigh all the positive aspects of the development. The private open space has a south easterly orientation, is not unduly overlooked or overshadowed and is directly accessible from the living room. If considered as an apartment the private open space would be acceptable for a 2 bed/ 4-person apartment. If for a retail/ office unit at ground floor and one-bedroom apartment over, the terrace area would be acceptable. The terrace area identified is larger than the previous terrace allocation of planning application D21A/0681.
- Sufficient Legal Interest/s
 - Implementation of the permission is considered by the Planning Authority to be ultra vires to the underlying planning permission approval under planning reg. ref. no. 451/90. The Applicant refers to

a Solicitors Letter regarding new arrangements by the new owner since 2018 whereby the residents of Corrig Court pay an annual Management Company fee. The Applicant states that the residents are entitled to one parking space for each household.

- Design and Scale
 - The development proposals do not represent Overdevelopment. The previous Inspector did not consider a similar building to be over development of the site, or indeed otherwise unacceptable as per Development Management Provisions. The Planning Officer finds that the separation distances are acceptable.
 - The proposals seek to increase existing public open space in compliance with condition 6 of planning reg. ref. no. 451/90, albeit 35 years later. The Planning Officer appears to be unclear in relation to this issue.
 - The proposals would not be visually obtrusive and overly dominant at this prominent location. The buildings will have a positive impact on the existing streetscape and visual amenities of the area. The proposals will add to the stock of architecturally contemporary buildings within the area. The proposals present a high quality of internal amenity for the future occupants. The unit has access to the communal external space in Corrig Court, along with bike parking and car parking spaces as would be delivered with an apartment unit.
- Condition 6 of planning reg. ref. no. 451/90
 - The Applicant considers that the Planning Officer fails to understand the context of the original permission, reg. ref. no. 451/90.
 - The said application proposed separate parking for the residential and commercial uses with a common shared access. The designation of the car parking spaces relates to both uses and there is no specific reference in the planning decision to areas exclusively

identified as car spaces or open space for residential units. There was a considerable overlap between the 2 no. uses under the 1990 permission. This relationship has been fundamentally altered under the 2018 permission which brings the commercial offices (no. 1 Corrig Avenue) back into single residential use. The Planning Officer refers to a requirement for 14 no. car parking spaces which is not referenced anywhere in the 1990 permission.

- The Local Authority consider the proposed development is likely to contravene the ability for condition no. 6 of planning reference 451/90 to be implemented. The current proposal results in a larger and improved open space within the arch and that this should be considered a suitable compliance with condition 6 of planning reg. ref. no. 451/90.
- The 9 no. car parking spaces delivered to the rear were below the lowest development plan standard in place in 1990. The applicable residential standard at the time was 1 space per dwelling meaning that the 6-no. delivered were an appropriate quantum. Since its development the car park assignment has been 1 space per dwellings and 9 spaces for the office building. The dwellings have never purchased and have never had ownership of any more spaces. Nor have they requested ownership/ lease of additional spaces.
- The Planning Officer incorrectly refers to the area known as Parcel 2 as being designated as open space in the 1990 application. The Applicant contends that this is untrue and the said area has always been laid out as commercial car parking.
- The 1 no. objector is a landlord, not residing in the house, who is primarily focused on a disputed parking space. The legal position in relating to this is clarified in the supporting Solicitors Letter. The Applicant has offered a car parking space in the application for handover to the residential element of Corrig Court. If this is later reassigned by the residents to the owner of no. 6 and use the

currently occupied parking space as the visitor parking space, this is a matter for the residents.

- It is totally reasonable that the areas identified as commercial allocation in the 1990 development would be transferred to this development.
- Visitor and bike parking are also to be provided.
- Impact on Residential and Visual Amenities
 - The proposals will not impact negatively upon the existing residential and visual amenities of the area.
 - The subject Appeal, if permitted, it will ensure no further development within the archway.
- Planning Reg. ref. no. D18A/0002: This fundamentally changed the 1990 permission regardless of any condition set out in that permission and separated 1 Corrig Avenue from Corrig Court.
- Planning Reg. ref. no. D21A/0681: The subject Appeal is an appropriate response to the reasons for refusal under planning reg. ref. D21A/0681.
- General: The Appellant considers there are inconsistent approaches taken by the Planning Authority in retaining excessive commercial car parking spaces, where no longer required, in lieu of residential units and retaining excessive car parking spaces in lieu of green space.

6.2. Applicant Response

- None.

6.3. Planning Authority Response

The Board is referred to the previous Planner's Report.

The grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.4. Observations

6.4.1. 1 no. Third Party Observation was received from the following:

- Cliodhna Ferris

6.4.2. The main issues raised in the Observation are summarised as follows:

- Failure of the Applicant to address the fundamental reasons for refusal or the issues raised in the application submission. A refusal is warranted.
- The proposed design, mass and design in an overbearing form will represent overdevelopment of a highly constrained site.
- Loss of Car Parking Space and resultant impact upon established surrounding residential amenities, contrary to the zoning objective and the provisions of the Development Plan.
- Proposals are contrary to Section 12.3.7.5 (Corner/Side Garden Sites), Section 12.3.7.7 (Infill) and Section 12.8.3.3 (Private Open Space) of the Development Plan by reason of its incongruous design adjacent to a Protected Structure and failure to meet Development Plan Standards in terms of Private Open Space for future residents.
- There is no potential for the proposal to be implemented in its current form. Planning reg. ref. no. 451/90 requires by condition that the subject appeal site is to be retained in private ownership and maintained by a property management company.
- There remains inadequate justification to replace the permitted open space with a dwelling house. The proposals contravene materially conditions 1 and 6 of planning reg. ref. no. 451/90 and attached particulars and is ultra vires with regard to the said stated underlying planning permission and therefore would also not accord with the zoning 'A' objective.
- Permission should be refused.

6.5. Further Responses

- None

7.0 Assessment

7.1. Introduction

- 7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and having inspected the site, and having regard to relevant local/ regional/ national policies and guidance, in my opinion, the substantive issues in this appeal are as follows:

- Zoning
- Development Plan Standards and Recommendations
- Built Heritage/ Building Line (New Issue)
- Condition no. 6 of planning reg. ref. no. 451/90
- Design, Scale, Mass, Bulk
- Other issues
 - Appropriate Assessment
 - Devaluation of Property

7.2. Zoning

- 7.2.1. The subject Appeal site is zoned 'Objective A' in the Dun Laoghaire County Development Plan 2022-2028, the relevant zoning objective for which is *'to provide residential development and improve residential amenity while protecting the existing residential amenities.'* Residential development is 'Permitted in Principle' under this zoning objective, subject to assessment against normal planning considerations. These matters are discussed in turn below.

7.3. Development Plan Standards and Recommendations

- *Nature of the proposed development*

- 7.3.1. I note the Local Authority has assessed the proposed development as a house as opposed to an apartment. I further note the proposed development, as presented,

and advertised in the public notices, refers to the construction of a two storey/ part three storey house. I therefore agree with the assessment of the Local Authority that the proposed development is for a single dwelling house and that the proposal should be assessed in this regard.

7.3.2. Section 12.3.7.5 of the Plan relates to **Corner/ Side Garden Sites** and, in my opinion, is of relevance to the assessment of this application. The subject proposal is, in my opinion, within the overall house curtilage of the adjacent dwelling, No. 1 Corrig Avenue and is suitably zoned Objective A. In the case of Corner/ Side Garden Sites, the Planning Authority will have regard to a number of parameters, as follows:

- *Size, design, layout, relationship with existing dwelling and immediately adjacent properties.*

7.3.3. The subject site is severely restricted in size having an estimated maximum site area of 48 sqm. The dwelling is stated to have an overall gross floor space of 88 sqm and has 100% site coverage as it is proposed to be constructed to the site extremities. The proposals also result in the loss of c. 9 metres of an existing natural stone wall positioned along the northern site boundary with Anglesea Lane. The building is proposed forward of the established building line of No. 1 Corrig Avenue and is proposed to the edge of the public footpath along the site frontage. The proposed dwelling would be positioned within 14 metres of an existing apartment building (Brook House) to the south-east on the opposite side of Corrig Avenue and would be adjacent, to the immediate east, of an existing part two storey/ part three storey commercial building. The dwelling is of comparable height to that of the adjacent structures to the immediate west and is below that of the adjacent Protected Structure. I consider the proposals represent an overdevelopment of this restricted site.

- *Impact on the amenities of neighbouring residents.*

7.3.4. The site is located at a prominent corner at the convergence of 3 no. roads, i.e., Corrig Avenue, Anglesea Lane and Corrig Court Access Road. The public footpath runs along the eastern site frontage and there is also an existing footpath positioned along the southern site boundary which serves Corrig Court to the rear/ west. I agree with the assessment of the Local Authority that the site would be overly prominent

and that this would serve to offer a poor level of amenity for future residents of the proposed dwelling.

- 7.3.5. The proposals also have the potential to impact negatively upon the established residential amenities of neighbouring residents, particularly No. 1 Corrig Avenue and particularly in terms of a loss of privacy and sense of enclosure to the front of said dwelling, as this space will be overlooked from the ground and first floor levels of the said dwelling.

- *Accommodation Standards*

- 7.3.6. I am satisfied that the proposed development, as presented, exceeds minimum floorspace recommendations for a 1 bed/ 2 Person House as set out in the Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes, Sustaining Communities (DEHLG, 2007).

- *Development Plan Standards for existing and proposed dwellings*

- 7.3.7. **Private Open Space.** It is proposed to provide a roof terrace at second floor level which is shown to be accessed via the second floor living room. The roof terrace is indicated to measure 8.1 sqm in area. As per the provisions of Section 5.3.2 of the Sustainable Residential Development and Compact Settlement Guidelines, 2024, including SPPR 2 (Minimum Private Open Space Standards for Housing), it is a specific planning policy requirement of the said Guidelines that proposals for new houses meet a minimum private open space standard of 20 sqm for a 1 bed house. For building refurbishment schemes on sites of any size or urban infill schemes on smaller sites (e.g. sites of up to 0.25ha) the private open space standard may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and proximity to public open space. The subject proposal, in my view, constitutes an urban infill development on a site of less than 0.25 hectares. I note the proposals include a separate area of public open space (Parcel B), albeit somewhat removed from the proposed residential element (Parcel A). I further note the location of the subject site adjacent to Dun Laoghaire Town Centre and proximate to existing public parks, public spaces and walks. Notwithstanding that I agree with the Local Authority regarding the assessment of the proposal as a dwelling, it is worth pointing out that the recommended minimum private amenity space for a one bed apartment, as per the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines

for Planning Authorities, July 2023, is 5 sqm. Having regard to the foregoing, I am satisfied that the proposed quantum of private open space at 8.1 sqm, although below the minimum private open space standard for a 1 bed dwelling, is acceptable in this instance.

- 7.3.8. **Public Open Space:** There are 2 no., albeit limited, areas of dedicated public open space/ landscaping within Corrig Court in the form of a narrow-landscaped strip along the northern boundary and a smaller landscaped area in front and to the east of no. 1 Corrig Court. Parcel A is in my view somewhat detached and removed from Corrig Court given its position to the east of the main archway entrance, approximately 27 metres to the east of no. 6 Corrig Court.
- 7.3.9. I note the appeal submission which includes an Architectural Statement and a Solicitors Letter which explains the Applicant's title to the lands amongst other matters.
- 7.3.10. In my view, the optimum location for an area of additional public open space comparable to the size of parcel A is not adjacent to the public road and removed from the majority of dwellings, as permitted under planning reg. ref. no. 451/90, but is instead as presented under the current proposals, i.e. close to the centre of the existing barrier controlled scheme, proximate to the majority of existing residences and capable of maximum passive surveillance. I am further satisfied that the applicant has demonstrated sufficient legal interest to carry out such works.
- 7.3.11. Notwithstanding this however there are other more substantive concerns in relation to the principle of the proposed development on the subject site. The Applicant does not appear to have presented a proposed layout drawing for the development of the proposed area of public open space.
- 7.3.12. **Separation Distances:** The proposed development, as presented, exceeds minimum separation distances between opposing windows, as set out in SPPR1 (Separation Distances) of the Compact Settlement Guidelines, 2024. The proposals are therefore considered to be acceptable in this regard, in terms of the separation distances.
- 7.3.13. **Car Parking/ Cycle Parking:** As per Car Parking Standards set out in Section 12.4.5 of the Plan, 7 no. dwellings create a maximum demand for a total of 7 no. car

parking spaces. Therefore, in my view, there is an overprovision of car parking on the overall plot to serve the existing 7 no. dwellings.

7.3.14. The proposed development, as presented, does not propose any additional car parking. I note the guidance provided in Section 5.3.4 of the Compact Settlement Guidelines, 2024 which relates to Car Parking - Quantum, Form and Location and includes SPPR 3. I consider that the provision of a dedicated car parking space is not necessary in this instance owing to the location of the site adjacent to the town centre and proximate to sustainable modes of transport.

7.3.15. It is proposed to provide a hanging bike rack on the door of the external store. In addition, the use of a bicycle parking space will also be available to the future occupants within Corrig Court. I note and agree with the assessment of the Local Authority in respect of cycle parking, as set out in the Report from the Transportation Department, whereby revised proposals for 2 no. secure, covered long stay (resident) and 2 no. short stay (visitor) cycle spaces are required. The quantum of Cycle Parking is consistent with recommendations contained in the Local Authority's Standards for Cycle Parking & Associated Cycle Facilities for New Developments, 2018. The proposed development is below the required standards for Cycle Parking.

- *Level of visual harmony, including external finishes and colours.*

7.3.16. The proposed external finishes are shown to comprise white brick stretcher bond with white/ grey mortar panels on the side west/ north elevation with powder coated aluminium cladding (bronze/ grey) to the recessed third floor exterior. Other external finishes on the remaining elevations include a smooth painted render finish to the upper part of the first floor on the east elevation and on the first floor. A number of proposed illustrations are presented in the supporting Architectural Planning Report which perhaps best show the relationship between the proposed dwelling and its surroundings. While there is a degree of visual harmony between the proposed dwelling and the adjacent commercial building at no. 1 Anglesea Lane, I have concerns regarding the relationship/ visual harmony between said building and that of the adjacent Protected Structures to the immediate south/ south-west, including no. 1 Corrig Avenue. The issue of the impact of the proposed development upon established built heritage is discussed in Section 7.4 further below.

7.3.17. Section 12.3.7.7 of the Plan relates to **Infill development**. The height and massing of the proposed development, in my view, suitably respects and is consistent with the established building height and massing of the structures to the immediate west on Anglesea Lane. Although the height of the proposed dwelling is below that of the adjacent Protected Structure, I have a concern that the proposed mass and bulk of the dwelling is such that it has the potential to detract from the character and setting of the adjacent protected structures to the immediate south/ south west, including no. 1 Corrig Avenue.

7.3.18. I am further not satisfied that the proposals serve to suitably retain the physical character of the area as they would result in the loss of an existing natural stone boundary wall and pier which, in my view, serves to contribute to the character and setting of the adjacent Protected Structure which dates from the Victorian era.

7.3.19. In summary, the proposed development, as presented, represents the overdevelopment of a severely restricted site at an overly prominent location and will serve to result in a poor level of residential amenity for future residents of the said dwelling, will impact negatively upon the amenities of surrounding residences and is deficient in terms of Cycle Parking provision. The proposals therefore do not satisfactorily adhere to recommendations contained in Section 12.3.7.5 (Corner/ side Garden Sites) and Section 12.3.7.7.7 (Infill Sites) of the Plan and is therefore not in considered to be accordance with the proper planning and sustainable development of the area.

7.4. Built Heritage/ Building Line (New Issue)

7.4.1. I note the appeal site is not located within an Architectural Conservation Area (ACA) or within a Candidate Architectural Conservation Area. No. 1 Corrig Avenue is however listed as a Protected Structure, ref. 913 and is detached from the adjacent terrace of Protected Structures further to the south, no's 2 to 9 Corrig Avenue.

7.4.2. No. 1 Corrig Avenue is separated from parcel A by existing footpaths and an access road which serves Corrig Court to the rear and its front garden is enclosed by a black metal railing. The dwelling is also served by separate direct vehicular and pedestrian entrances from Corrig Avenue.

7.4.3. The proposed dwelling is estimated to be positioned a maximum of 14 metres forward of the established building line of no. 1 Corrig Avenue. This established

building line is shared with the adjacent dwellings further to the south and is for the most part consistently maintained on this side of Corrig Avenue. No. 1 Anglesea Lane is however already forward of this said established building line by a maximum of approximately 4.2 metres, albeit at an angle and behind what appears to be a partly original full height wall. At its nearest point, the proposed new dwelling would be within 7.3 metres to the north-east of no. 1 Corrig Avenue. The main entrance into the proposed new dwelling is positioned along the southern elevation which faces the front garden of no. 1 Corrig Avenue.

7.4.4. In my opinion, the proposed development, as presented, by reason of its positioning significantly far forward of the established building line of the adjacent Protected Structure (ref. 913) and that of other Protected Structures further to the south, would serve to detract and negatively impact the established special historic character and setting of the Protected Structure and would, if permitted, set an undesirable precedent for similar proposals into the future. I am therefore satisfied that the proposed building and the associated building line is not appropriate in this instance and that permission should be refused.

7.4.5. The issue of Building Line is a New Issue and therefore the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

7.5. Condition no. 6 of planning reg. ref. no. 451/90

7.5.1. Condition no. 6 of planning reg. ref. no. 451/90 reads as follows:

'The proposed grouped car parking areas, access road, pathways and landscaped areas within the development shall be retained in private ownership and maintained by a property constituted management company. Details of the management agreement shall be submitted to the Corporation for agreement prior to the commencement of development.'

Reason: To ensure the protection of amenities.'

7.5.2. Planning reg. ref. no. 451/90 is the parent planning permission pertaining to the development of 6 no. two storey dwellings to the rear (west) at Corrig Court and includes the subject Appeal site (Parcels A & B). Parcel A, upon which 1 no. dwelling house is proposed under the subject appeal, formed part of a proposed landscaped

open space. Parcel A has not been developed for this purpose and is now overgrown.

- 7.5.3. The proposed development description, as set out in the Public Notices, refers, *inter alia*, to '*land previously approved as amenity open space under DLRCC Planning Reg. Ref. 451/90*'. There is no specific reference in the development description to Condition no. 6.
- 7.5.4. The Planning Authority, as per reason for refusal no. 2, consider that the implementation of the development would contravene materially the conditions, namely conditions no. 1 and no. 6, and attached particulars of planning reg. ref. no. 451/90 and is considered *ultra vires*.
- 7.5.5. The Applicant submits that under Planning Reg. ref. no. D18A/0002, the 1990 permission, reg. ref.no. 451/90 has been fundamentally changed regardless of any condition set out in that permission and that this said permission (reg. ref. no. D18A/0002) separated 1 Corrig Avenue from Corrig Court. I note that on the plans submitted with planning reg. ref. no. D18A/0002, Parcel A is indicated as an area of heavy vegetation. Planning reg. ref. no. D18A/0002 has been implemented and no. 1 Corrig Avenue has now reverted back to residential use.
- 7.5.6. Notwithstanding the above, this matter, in my view, does not have a fundamental bearing on the overall assessment of the planning application.

7.6. Design, Scale, Mass, Bulk

- 7.6.1. The subject site can be considered to be within a Transitional Zonal Area. The site is zoned Objective A '*to provide residential development and improve residential amenity while protecting the existing residential amenities*' and is surrounded to the north-west, north, east and south-east by lands zoned Objective MTC '*to protect, provide for and-or improve major town centre facilities*'. The remainder of the overall plot, which includes no. 1 Corrig Avenue and the existing 6 no. 2 storey dwellings at Corrig Close is also zoned Objective A, as are other lands to the remaining lands further to the south and south-west.
- 7.6.2. As per guidance set out in Section 13.1.2 of the Plan, it is important to avoid abrupt transitions in scale and use in the boundary areas of the adjoining land use zones. I consider the subject site (parcel A) to be within such a boundary area/ contiguous

transitional zonal area. It is further stated that in such areas it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone. As the adjacent dwelling, no. 1 Corrig Avenue, is listed as a Protected Structure, I consider the subject site (parcel A) to be the more environmentally sensitive zone.

7.6.3. Having regard to the design and layout of the proposed dwelling, on a severely restricted and prominent site, which extends to the site limits, proposes 100% site coverage and is proposed forward of the established and most relevant building line of the adjacent Protected Structure positioned 7.3 metres to south-west, it is my opinion that the proposed development, as presented, represents an overdevelopment of this restricted site and results in a proposal which is excessive in terms of scale, mass and bulk. I am therefore satisfied that the proposed design and layout, as presented, is not acceptable in this instance.

7.6.4. Permission should be refused.

7.7. Other issues

- *Appropriate Assessment*

7.7.1. Having regard to the nature and scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

- *Devaluation of Property*

7.7.2. I note the concerns raised in the Observations in respect of the devaluation of neighbouring property. In the absence of any definitive supporting evidence to the contrary, I cannot say with certainty that the proposed development would adversely affect the value of property in the vicinity.

8.0 Recommendation

8.1. Recommendation

8.1.1. I recommend that permission be REFUSED for the following reason/s.

9.0 Reasons and Considerations

1. Having regard to the objective A zoning for the site '*to provide residential development and improve residential amenity while protecting the existing residential amenities*' and Sections 12.3.7.5 (Corner/ Side Garden Sites) and 12.3.7.6 (Infill) of the Dun Laoghaire County Development Plan 2022-2028, and also having regard to the scale, mass, design and height of the proposed development and its setting forward of the established building line, it is considered that the development would be overbearing, out of scale and out of character in comparison with the prevailing architectural context and would appear visually incongruous in the streetscape. The proposed development would, therefore, by itself and by reason of the undesirable precedent it would set for similar development in the area be contrary to the proper planning and sustainable development of the area.
2. It is considered that, by reason of the proposed building line forward of the established building line of the adjacent Protected Structure (Ref. 913), together with the proposed design, scale, mass and bulk of the building, the proposed development would materially and adversely affect the character and setting of the Protected Structure and would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

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.

Frank O'Donnell
Planning Inspector

7th June 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318143-23		
Proposed Development Summary	Construction of a house		
Development Address	Dun Laoghaire Rathdown County Council		
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		Class 10(b), Schedule 5 Part 2	EIA Mandatory EIAR required
No	X	N/a – Below Threshold	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 10(b), Schedule 5 Part 2	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____