



An
Bord
Pleanála

Inspector's Report

ABP-306465-20

Development

The development consists of: external and internal as-built modifications to the permitted residential development under Dublin City Council Reg. Ref. 3604/08 (ABP Ref: PL29S.231151) and extended by DCC Reg. Ref. 3604/08/x1.

Location

The Former Chester Beatty Library, 20, Shrewsbury Road, Dublin 4

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

4268/19

Applicant(s)

Glenveagh Homes Ltd.

Type of Application

Permission.

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Marston Planning Consultancy.

Observer(s)

None.

Date of Site Inspection

14th March 2020.

Inspector

Sarah Lynch

1.0 Site Location and Description

- 1.1. The appeal site, with a stated area of 3,991sq.m. is situated off Shrewsbury Road, Dublin 4. It is an area typified by large detached houses on extensive plots constructed in the early 20th Century. This site is roughly L-shaped, with most situated to the rear of houses fronting onto Shrewsbury Road. There is street frontage of 9 metres approximately, with a tree-lined avenue leading to the site itself.
- 1.2. The site has been redeveloped as a consequence of permission granted by An Bord Pleanála ref ABP 231151. The new development comprises 2 no. terrace blocks of 3 & 4 dwellings with front and rear gardens and basement car parking for 13 no. cars and basement garage per unit to accommodate 2 no. cars.
- 1.3. The development is complete and is currently undergoing an internal fit out. External landscaping is also under construction.

2.0 Proposed Development

- 2.1. It is proposed to seek retention permission and permission for the following:
 - External and internal as-built modifications to the permitted residential development under Dublin City Council Reg. Ref. 3604/08 (ABP Ref: PL29S.231151) and extended by DCC Reg. Ref. 3604/08/x1 to include:
 - Construction of a replacement ESB substation;
 - All external and internal as built works including reduction in the number of guest car parking spaces from 13 no. spaces to 11 no. spaces within the shared basement;
 - Revisions to the internal layout to include relocation of the kitchen from basement level to ground floor level (in houses nos. 1-4 and 6-7),
 - Inclusion of a lift in each dwelling extending from basement level to second floor level and reconfiguration of the internal layout of houses nos. 1-7 at basement level and levels 1, 2 and 3;
 - General external alterations to fenestration, - chimney and door detail, - dormer detail including omission of chimneys; increase to parapet/ridge heights locally to elements of the buildings (north block - ground floor

return and first floor, house 4 west elevation to include window - south elevation house 1 - roof level to match existing); and all associated works.

- No overall increase in gross floor area or building height is proposed.

3.0 **Planning Authority Decision**

3.1. **Decision**

Dublin City Council determined to grant retention permission and permission.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- The planners report was consistent with the decision of the planning authority.

3.2.2. Other Technical Reports

- Drainage – standard conditions.
- Archaeology – standard conditions
- Transport Division – no comment.

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

One submission was received, the issues raised are outlined within the grounds of appeal.

4.0 **Planning History**

- PL29S.231151 - Permission was granted for the following:

a) Demolish the remaining building on site previously used as part of Chester Beatty Library complex initially as residential accommodation by caretakers and subsequently as offices.

b) To construct 7 three storey over basement houses (1x three bed; 6x four bed) in 2 buildings, one of which will have a balcony.

c) The basement level will contain 13 visitor car parking spaces, bicycle parking, bin store, plant areas, store areas together with garage (for 2 cars) and living accommodation for each house.

d) Private front and rear gardens attached to each house. e) Communal landscaped open space, one parking space at surface level, ancillary site works, access to development from existing driveway and entrance on Shrewsbury Road and provision of internal driveway and access ramp to basement level.

- PL.9S.123539 Planning permission refused for a scheme of 13 apartments on this site. In its decision, the Board cited the location of the property within a Residential Conservation Area, as well as the unique character of Shrewsbury Road.
- PL29S.128554 Permission granted for an apartment scheme of 7 apartments subject to 11 conditions. The scheme included a basement level car park.
- PL29S.204501 Permission granted subject to 11 conditions for demolition of existing buildings and erection of seven apartments in two/three-storey block, over basement level car parking. The scheme indicated a three storey building facing south-west, with a two-storey wing on the south-east side. The height would vary from 8.8 metres up to 11.8 metres
- PL29S.208343 Permission granted for a variation to PL29S.204501. These variations included revised elevations on three sides, increasing the building size on the north-east (by 87square metres) and reducing the size on the southwest (16 square metres). The approved floor area increases to 2227square metres.

- PL29S.212098 Permission granted to demolish the existing buildings on the site and to erect a 2/3 storey building of 2227square metres of 7 apartments and ancillary works.
- PL29S.217212 Planning permission refused to demolish the existing buildings on the site, erect a 4 storey building of 2975sq.m containing 7 apartments and ancillary works. It was considered that the proposed block, by reason of its mass, height and scale, would be out of keeping with the established pattern of development in the area and would be unduly visually dominant and overbearing and would injure the residential amenities of adjoining properties.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

The site is located in an area zoned Z2 which seeks to protect and/or improve the amenities of residential conservation areas.

The following Sections are of relevance:

- 16.2.2.3 – Alterations and Extensions (General)
- 16.10.12 Extensions and Alterations to Dwellings
- Section 17.3 Residential Amenity Issues
- Section 17.4 Privacy
- Section 17.6 Daylight and Sunlight

- **Appendix 17 –**

The guidelines contained within this section provide general advice and design principles for residential extensions.

5.2. Natural Heritage Designations

None in close proximity to site.

5.3. **EIA Screening**

5.4. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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**

The grounds of appeal have been prepared by Marston Consultancy Ltd the issues raised can be summarised as follows:

- The legal basis for making an application for modification to an expired permission is questioned.
- As the permission has not been carried out in the prescribed timeframe it cannot be modified.
- Increase in windows and change of use of upper floor room to living room will increase overlooking to adjoining properties.
- Material change in bulk due to increase in western wing of the northern block increasing from dormer to two storey.
- Lack of clarity in relation to height of trees and potential for impact on stability of neighbouring wall and overshadowing.
- The development is contrary to the zoning objective for the area, diminutive to the surrounding residential and visual amenity and will set an undesirable precedent for car parking standards in the area.

6.2. **Applicant Response**

A response to the grounds of appeal has been prepared by John Spain Associates and can be summarised as follows:

- The alterations are considered to be de minimis.

- The relevant works were completed within the time of the permission and the retention permission sought to regularise matters.
- The as built scheme includes one additional window in the north western corner of the scheme.
- The filling in and change of roof profile is considered minimal.
- The change in the kitchen from lower ground floor to ground floor will not impact residential amenity.
- There has been extensive discussion between the appellant and the applicant regarding planting.
- Planting details have been provided.
- The as built has removed 3 no. windows and added one.
- The northern block is set back 11.67 metres from the boundary.
- Permission is for retention not for modifications.

6.3. Planning Authority Response

- None

6.4. Observations

- None

7.0 Assessment

- 7.1. The proposed development is located within an area subject to the Z2 zoning objective which seeks to protect and/or improve the amenities of residential conservation areas. The principle of residential development is accepted within this zoning objective subject to compliance with the Dublin County Development Plan 2016-2022 and relevant Section 28 guidelines. This is a third party appeal against the planning authority's decision to grant retention permission and permission for alterations to the previously permitted scheme, the issues for consideration before the Board relate to the grounds of appeal, having reviewed the plans and particulars submitted with the

appeal I am satisfied that no other substantive issues arise. The issues for consideration can therefore be summarised as follows:

- Impact on residential and visual amenities
- Car parking
- Appropriate Assessment
- Other Matters

Impact on residential and visual amenities

- 7.2. It is contended by the appellant that the alterations to be retained will negatively affect the residential and visual amenities of the surrounding area. As outlined above alterations to the development include the removal of 3 no. windows and the insertion of an additional window within the north western corner of the scheme which overlooks the RDS buildings to the north west of the site. With specific regard to this window I do not consider that impacts to residential amenity will arise, nor do I consider the insertion of such a minor feature in the context of the overall scheme to be so significant as to have an impact on the visual amenities of the surrounding area.
- 7.3. In addition to the foregoing, a number of alterations to the façade of the building inclusive of changes to window sizes, which incidentally are largely a reduction rather than an increase; removal of a number of dormer windows; reduction in chimney stack heights and amendments to decorative detail have been carried out. Having completed a site inspection and reviewed the previously permitted drawings I consider the alterations to be acceptable. The alterations carried out provide for a more streamlined and improved appearance to the development overall and whilst minor in nature, cumulatively improve the overall aesthetic of the building.
- 7.4. I note the appellant's concerns in relation to landscaping and note the applicant's response to same in which a photomontage has been submitted demonstrating the type and height of the trees to be provided along the boundary with no. 18 Shrewsbury Road. I consider the proposed landscaping to be acceptable, the trees proposed will provide for adequate levels of privacy to both the existing residents of no. 18 and the future residents of the development.

Overall the changes to the development are subtle, but as mentioned above, cumulatively these changes improve the general aesthetic of the building.

Carparking

Alterations to the car parking include the omission of 2 no. spaces. A significant number of spaces have been provided within this scheme, whilst I note that the number of spaces is in excess of that permitted under the current development plan, the application relates solely to the removal of spaces and does not provide the opportunity to re-evaluate car parking within the scheme.

Appropriate Assessment

- 7.5. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any 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.

Other Matters

- 7.6. It is contended by the applicant that permission has lapsed for the development and therefore retention permission for alterations to a previously permitted scheme which has expired cannot be determined and is not provided for within the legislation. It is important to note in this regard that Section 34 (12) of the Planning and Development Act 2000, (as amended), provides the statutory provision to seek permission for the retention of unauthorised development.

8.0 Recommendation

- 8.1. I recommend that permission is granted subject to standard conditions.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area

or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

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

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

3. The landscaping scheme accompanying the application shall be implemented fully in the first planting season following completion of the development and any trees or scrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.

Reason: In the interests of amenity, ecology and sustainable development.

4. The site and development works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public road, the said cleaning works shall be carried out at the developers expense.

Reason: In the interest of orderly development.

5. The developer shall facilitate the archaeological appraisal of the site and shall

provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

- 6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

- 7. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling shall not exceed:-

- (i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
 - (ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.
- (b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

Reason: To protect the residential amenities of property in the vicinity of the site.

Sarah Lynch
Planning Inspector

14th March 2020