



An
Bord
Pleanála

Inspector's Report

ABP-306554-20

Development	Demolition of boundary wall and garage structure, and construction of dwelling with part single storey element to the rear.
Location	Saint Alphonsus Avenue to the rear of No. 18 Saint Alphonsus Road Lower, Dublin 9
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	3707/19
Applicant(s)	Paul Kiernan
Type of Application	Permission.
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Ken and Dawn Lacey
Observer(s)	none
Date of Site Inspection	16 th March, 2020

Inspector

Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located on St Alphonsus Avenue which is a mews lane that runs to the rear of St Alphonsus Road in Drumcondra. The site currently forms part of the curtilage of No.18 St Alphonsus Road and is occupied by a single storey metal garage structure that fronts directly onto the road.
- 1.2. Existing development in the vicinity of the site comprises a two storey mews dwelling located to the immediate east of the appeal site and which is set back from the road edge. Further to the east are a terrace of two storey red brick houses. The site to the west which is to the rear of No.20 St Alphonsus Road is currently undeveloped and overgrown. Development on the southern side of the street comprises a terrace of single storey cottages.
- 1.3. The site has a stated area of 161 sq. metres. It is noted that the site is located at a slightly higher level than that to the west and that the ground level rises slightly from south to north.

2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of the existing shed structure on the site and the construction of a two storey three bedroom dwelling on the site. The dwelling is proposed to have the same main rear building line as the existing house to the east while to the front, the front building line would be set back from the road by c.5.7 metres and would be approximately 1.4 metres further forward than the existing front building line of the dwelling to the east.
- 2.2. To the rear, a flat roof extension of depth c.3.63 metres 3.25 metres above the finished floor level of the proposed house and c.3.5 metres above the ground level on site is proposed.
- 2.3. Finishes to the proposed dwelling is brick in the front elevation with a timber louvered panel covering the vehicular access.
- 2.4. The stated floor area of the proposed dwelling is 117 sq. metres.

3.0 Planning Authority Decision

3.1. Further Information

Prior to the issuing of a decision, the Planning Authority requested further information on the following issues:

- Concerns regarding the projection of the two storey element of the front building line forward of that of the existing house to the south east, plus the proposed development being built up to the party wall will result in a reduction in residential amenity for this adjoining property.
- That the planning authority has concerns regarding the impact of the proposed development on daylight and sunlight to the adjoining property.

The following was submitted in response to the request for further information:

- Revised plans that indicate the setting back of the front / southern elevation by up to 2 metres from that previously indicated and at ground floor level the front has been set back by a further 1 metre.

3.2. Decision

The Planning Authority issued a Notification of Decision to Grant Permission subject to 11 no. conditions, the most notable of which are as follows:

- Condition No.4 requires inter alia that the driveway entrance shall not have outward opening gates.
- Condition No.5 restricts otherwise exempted garages extensions or other additions to the house.
- Condition No.11 restricts the hours of construction.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The initial report of the planning officer notes the relevant development plan policy, including that related to mews development and infill dwellings and the observation from the adjoining property owner. A lack of detail regarding the design and materials of the front of the building is noted as is the depth of the projection beyond the line of the existing adjoining house to the east and the potential impact of this on residential amenity and particularly overbearing, daylight and sunlight. . Second report subsequent to the submission of further information recommends a grant of permission that is consistent with the notification of decision which issued.

3.3.2. Other Technical Reports

Drainage – No objections subject to conditions.

Transportation Planning – No objections subject to conditions.

3.4. Prescribed Bodies

Irish Water – No submission to Planning Authority.

3.5. Third Party Observations

Observations submitted by the resident of the adjoining property to the east raising the following issues:

- Excessive depth of the development,
- Overshadowing,
- Excessive height and different front building line.
- That the proposal is not consistent with plan policy for mews lane developments (Paragraph 16.10.16).
- The proposal does not comply with council policy for residential extensions.
- No permission will be given to demolish boundary walls and no permission forthcoming to erect scaffolding in objectors property.

- Potential combined nuisance if development undertaken at same time as 2462/19.
- The above permission and current proposal will put pressure on car parking.

4.0 Planning History

There is no reference to any planning history relating to the appeal site.

Reference is made by the third party observers / appellants to the following:

Dublin City Council Ref. 2462/19 – Permission granted for alterations to previously approved development (planning ref 3999/16) to include: (a) demolition of existing 3 storey structure (No. 46), and construction of a 3 storey student accommodation building over ground floor retail unit. Accommodation is to be internally linked to previously approved development. (b) additional set back second floor level along St. Alphonsus Avenue to provide additional student and ancillary accommodation.

Dublin City Council Ref. 2213/90 – Permission granted for the construction of a two storey dwelling on the site located to the immediate east of the current appeal site. This is the property of the third party appellant and is referred to as ‘Dunbeg’ in the appeal documentation.

5.0 Policy Context

5.1. Development Plan

The appeal site is zoned Objective Z1 Sustainable Residential Neighbourhoods under the provisions of the Dublin City Development Plan. The stated objective for this zone is *‘to protect, provide and improve residential amenities’*.

The following provisions of the Plan are considered of relevance to the assessment of this case:

- Paragraph 16.10.2 relates to residential standards for houses.
- Houses shall comply with the internal layout and space provisions of the Department guidance 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes and Sustaining Communities'.
- A minimum open space provision of 10 sq. metres per bedspace is required.
- Paragraph 16.2.2.2 and 16.10.10 relates to Infill Development.
- Paragraph 16.10.16 relates to Mews Development.

5.2. Natural Heritage Designations

The site is not located in or close to any European sites.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the grounds of appeal:

- That the size and scale of development is excessive at 14.3 metres in depth. The appellant's property is 8 metres in depth and would be overshadowed.
- That the size proposed is out of context with surrounding properties.
- That the front building line is out of keeping with the appellants and would encroach on it.
- That Condition 6 of the permission for the appellant's property relates to over sailing and there is concern that the proposed development will result in such impacts.
- That the development is not consistent with plan policy regarding infill development in particular the overhang in the front elevation and the double pitched roof design.

- The development is contrary to plan policy regarding mews design, the scale and building lines are not respected and there is not a unified approach to the development.
- The scale is contrary to policy QH22.
- The development is contrary to the provisions of Appendix 17 of the plan relating to residential extensions.
- The development is contrary to section 16.10.10 of the plan relating to infill housing and particularly as it relates to the established building line and the depth of the house.
- That the proposal proposes the demolition of the boundary walls to the front and back and no consent has been given to this.
- No consent to access for the purposes of construction.
- Overlooking of property
- Excessive height of the rear element on proposed house which is not in line with appellant's property as contended.
- Inadequate private amenity space to meet 16.10.16 of the plan.
- The front building line will result in a loss of light to the front of Dunbeg and particularly to the bay window to the front. Loss of light to the rear garden.
- That the shadow study submitted does not reflect the reality in appellant's property.
- That there is a public lighting pole outside the appeal site that will require to be moved.
- That there is inadequate parking and the proposal will put pressure on parking in the vicinity of the site.
- That there are inaccuracies in the planners report and the content of the Drainage and Traffic Planning reports.

6.2. Applicant Response

The following is a summary of the main issues raised in the first party response to the grounds of appeal:

- That the design of the development was significantly amended at further information stage to reflect the concerns of the appellants regarding scale and design and the impact of the development on their amenity.
- That a shadow study was undertaken and submitted to the planning authority which demonstrates that the impacts of the development are minimised.
- Regarding the reference to Condition No.6, it is not the intention of the applicant to over sail the shared boundary.
- That the proposed development does match the prevailing scale of the laneway being two storey development with a pitched roof.
- The double pitched roof proposed matches the typology of the original houses on St. Alphonsus Road Lower and will not impact on the streetscape.
- That the deeper floorplan proposed enables an efficient use of the site in line with national policy.
- That the building line and design was the subject of discussions with the council and seeks to amend what is considered to be a previous mistake by the council to allow the set back front building line on the appellant's property which broke the original building line. The proposed development seeks to step the building line back towards the road and facilitate any future development of the site to the west having a building line closer to the road.
- That it is the intention to keep existing boundary walls and any works to party walls would have to be agreed upon.
- If access for construction cannot be agreed then it is proposed to use brick as a finish.
- That the rear garden depth is 7.8 metres which is in excess of the 7.5 minimum requirement of 16.10.16.

- That amended locations for public lighting can be dealt with through standard procedures with the relevant authorities.
- That provisions for any permitted student accommodation in terms of access would have been addressed as part of such applications.
- That the issue of CPO is not considered to be a relevant planning issue and the applicant (first party) has no plans for their property at this time.
- That the disposal of surface water will be entirely within the site boundaries and all foundations will be accommodated entirely within the site.

6.3. **Planning Authority Response**

No response on file.

7.0 **Assessment**

7.1. The main issues in the assessment of this appeal are considered to be as follows:

- Principle of development and zoning,
- Design and visual impact
- Impact on amenity
- Traffic and access
- Site servicing and other issues
- Appropriate assessment

7.2. **Principle of Development and Zoning,**

7.2.1. The site is located on lands that are zoned Objective Z1 (Sustainable Residential Neighbourhoods) under the provisions of the *Dublin City Development Plan, 2016-2022*. The stated objective for this zone is *'to protect, provide and improve residential amenities'*. The provision of a new dwelling on an infill site such as the appeal site is a use that is Normally Permitted on lands zoned Objective Z1. The proposed development is therefore considered to be acceptable in principle subject

to compliance with other relevant development plan policies, including those relating to infill development and mews development.

7.2.2. I note that policies QH7 and QH8 of the development plan relate to the promotion of sustainable residential densities and infill development of suitable sites. The principle of the proposed development is in my opinion consistent with these policies.

7.2.3. I note the fact that the appellants raise a number of issues with regard to the potential impact of the development on third party rights and, in particular, issues of potential over sailing, access for construction and impacts on shared boundaries. A number of these issues are addressed in the first party response to the grounds of appeal including over sailing where it is clarified that no element of the proposed development would over sail the shared boundary with the appellant's property. Similarly, the first party response clearly states that it is not proposed that existing shared boundary walls would be interfered with and there is no indication in the submitted plans that this would be the case. On the basis of the information presented in the application and response to the appeal I do not therefore consider that there is a clear basis to conclude that there would be any significant negative impacts on third party property or property rights arising. Notwithstanding this conclusion, issues relating to property rights and over sailing of boundaries are civil matters between the parties, and a grant of permission does not entitle the first party to undertake works which are outside of their legal interest or control.

7.3. Design and Visual Impact

7.3.1. The basic design of the proposed development comprises a two storey dwelling set back from the existing site boundary to Saint Alphonsus Avenue and having a brick finish and pitched roof. The first party appellants make the case in a number of ways how the proposed development is considered to be contrary to the existing character and scale of the area and that it is therefore contrary to the provisions of the development plan, and in particular the plan provisions relating to Mews Dwellings (16.10.16) and infill development 16.10.10 and 16.2.2.2) as they relate to character and scale in particular.

- 7.3.2. In terms of basic scale and presentation to the street, I do not agree with the appellants that the proposed development would be significantly out of character or scale with its surroundings. The development proposed is a two storey dwelling and is located on the northern side of the road where there is currently two storey housing. These two storey housing includes the appellants property 'Dunbeg' on the adjoining site to the east which is very similar in eaves and roof ridge heights to the development proposed on the appeal site. Development on the southern side of the road is single storey, however the basic design and scale of development proposed, including the red brick and use of a double pitched roof, is in my opinion consistent with surrounding properties and the overall character of the area.
- 7.3.3. The issue of the building line is specifically raised by the appellants as having a negative impact on character and visual amenity as well as impacting on the amenity of their dwelling to the east. Issues relating to the impact on residential amenity are discussed in more detail in 7.4 below, however as set out in the first party response to the appeal, the design of the proposed dwelling was the subject of significant amendment on foot of the request for further information. The previously proposed overhanging first floor level to the front elevations has been revised and the set back of the building line from the boundary with St. Alphonsus Avenue is c.5.5 metres and the minimum required to park a car. The difference in the front building line proposed compared with the appellants property to the east is c.1.4 metres and is not considered such as to create a significant negative impact on the streetscape or visual amenities of the area. With regard to building line, I note and generally accept the case made by the first party regarding the variation in building lines in the general vicinity of the site and the fact that the majority of houses are located directly fronting the street. Given the prevailing pattern of development in the vicinity and the building line of the appellant's property to the east, I do not consider that the proposed development would have any negative impact on the character or visual amenities of the area.
- 7.3.4. Internally, the layout of the proposed house is considered to be acceptable and consistent with the requirements of Quality Housing for Sustainable Communities and Policy QH1 and Paragraph 16.10.2 of the Development Plan. An area of private amenity space is proposed to the rear of the house and the depth of this area scales to approximately 7.75 metres on the revised plans submitted by way of further

information. The level of private amenity space provided is in excess of the minimum 10 square metres per bedspace requirement set out in the plan (16.10.2).

7.4. Impact on Amenity

- 7.4.1. The appellants contend that the scale of development proposed is such that it would lead to visual overbearing when viewed from their property and that their house and garden would be subject to a loss of daylight and sunlight. It is also contended that the height of the proposed double pitched roof and the depth of the proposed development in the site is unacceptable and such as would negatively impact on residential amenity.
- 7.4.2. With regard to the design of the roof, as stated above under the heading of design, I do not have any issue with the use of a double pitched roof and consider that it is consistent with the prevailing roof form in the wider area of the site. Any slight increase in roof pitch and impacts on daylight and sunlight are considered as part of the discussion on this topic below.
- 7.4.3. With regard to the depth of the proposed development, the front building line of the two storey house is proposed to extend c.1.4 metres beyond the front building line of the appellant's property to the east and such that I do not see that the impact on the availability of light to the front of the appellants property or daylight to the rooms in the front of their property would be significantly impacted. To the rear, the rear building line of the two storey development proposed matches the rear building line on the appellant's property and any impact on daylight and sunlight would arise from the single storey rear element. This is proposed to be 3.63 metres in depth and to be 3.25 metres above the finished floor level of the proposed house and c.3.5 metres above the ground level on site. References by the appellants to a depth of house of 13.475 metres is inclusive of the rear extension and in terms of depth of two storey building the proposed development would be c.9.65 metres as against c.8.25 metres for the appellants property.
- 7.4.4. The submitted drawings indicate the existing boundary wall with the appellants property being c.1.8 metres above FFL and therefore significantly higher than the 1.4 metres cited by the appellants.

7.4.5. As part of the response to the request for further information made by the Planning Authority, the applicant submitted a sunlight study of the impact of the proposed development on surrounding sites, including that of the third party appellants. Given that the appeal site is located to the west of the appellant's property, the results of this sunlight assessment is consistent with the relative orientations with the main likely adverse impact being in the afternoon periods during spring and autumn, (e.g. 15.00hrs on 21st March and September) where the existing significant level of shadowing would be increased such that the entirety of the rear garden of the appellants property would be in shade. At other times indicated in the assessment either the relative orientation of the properties is such that there would be no additional impact (e.g. early morning up to early afternoon) or that the sun would be high enough that there would be no additional impact (mid summer) or that the appellants garden is already overshadowed (late afternoon in spring and autumn). Overall therefore, while the proposed development will have some additional shadowing impact on the appellants property relative to the existing situation, in particular during mid afternoon in spring and autumn periods, I do not consider that the overall impact is excessive or such that there would be a significant adverse impact on residential amenity arising. Similarly, on the basis of the proposed design and relative layouts of the two properties, I do not see that the proposed development would have any material impact on the availability of daylight to the appellants property and not such that would breach the standards set out in the BRE Daylight and Sunlight Guidelines.

7.4.6. In view of the above, I consider that the provisions of the development plan with regard to infill development and mews development and the provisions contained in these policies regarding the protection of existing residential amenities would be met in the proposed development.

7.5. Traffic and Access

7.5.1. The development proposes the provision of a single off street car parking space and this is considered to be acceptable and is consistent with the requirements of the development plan including the policy relating to mews developments (see paragraph 16.10.16(g)). The third party appellants raise a number of concerns with

regard to the access to the site, the combined impacts on traffic when considered with the permitted student residential development to the east and the potential for overspill parking. These concerns are noted however the proposed development relates to a single house and the potential additional traffic implications arising are considered to be limited. As noted by the first party, traffic generated by the permitted student accommodation development would have been assessed in the consideration of that application.

- 7.5.2. It is also noted that the appeal site is located in close proximity to the city centre and in a location that is easily accessible to Drumcondra rail station and within easy reach of the Drumcondra Road and the significant number of bus routes that run along Drumcondra Road. In view of this central location and high level of accessibility to public transport it is my opinion that the single off street parking space proposed is sufficient to serve the development.

7.6. Site Servicing and Other Issues

- 7.6.1. The first party state that the disposal of surface water will be entirely within the site boundaries and I note the fact that the Drainage Division of the council have no objections to the proposed development subject to conditions. No report / response from Irish Water is provided on the application file, however connection for a single dwelling in an area where there is a foul drainage and water supply infrastructure in the adjoining street is not considered to be a potential issue. In the event of a grant of permission, it is recommended that a condition requiring a connection agreement with Irish Water should be attached. .
- 7.6.2. I note the reference in the appeal submission to the presence of a lighting pole along the frontage of the site and this was observed at the time of inspection and is visible in the photographs of the site. In the event of a grant of permission, amended locations for public lighting can be dealt with by way of condition.

7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not

considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. Having regard to the above, it is recommended that permission be granted based on the following reasons and considerations and subject to the attached conditions:

9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. 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 carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 6th day of December, 2019 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The developer shall pay to the planning authority a financial contribution of €5,940.45 (five thousand nine hundred and forty euro and 45 cent) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

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

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

Reason: In the interest of public health

4. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement with Irish Water.

Reason: In the interest of public health.

5. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the permitted dwelling without a prior grant of planning permission.

Reason: In the interest of residential amenity.

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

Reason: In the interest of urban legibility.

7. Site development and building works shall be carried out only between the hours of 0700 to 1800 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 residential amenities of property in the vicinity.

8. Prior to the commencement of development, the developer shall submit proposals for the relocation of the existing lighting pole along the frontage of the site for the written agreement of the Planning Authority.

Reason: To facilitate access to the site and in the interests of residential amenity.

Stephen Kay
Planning Inspector

18th March, 2020