



An
Bord
Pleanála

Inspector's Report ABP-306904-20

Development	Proposed 4 no. bedroom apartment, consisting of two storeys located over existing ground floor with proposed change from pitched roof to flat roof (1st floor) and new second floor, including 6no. balconies and solar panels and roof deck/garden,
Location	1A, Oxmantown Road, Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4723/19
Applicant(s)	Luther Mussa
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party V. Refusal
Appellant(s)	Luther Mussa
Observer(s)	None
Date of Site Inspection	16 th June 2020
Inspector	Máire Daly

1.0 Site Location and Description

- 1.1. The subject site is located on the corner of Aughrim Place and Oxmantown Road on the northern side of the city centre, approximately 2km west of O' Connell Street. The existing structure at No. 1A Oxmantown Road is two storey building with a first floor brick finish and a pebble dash finish on the ground floor. A retail unit (corner shop) occupies the lower floor and the first floor currently consists of two small residential 1 no. bedroom units.
- 1.2. The surrounding area is generally residential, with a small number of commercial properties located directly adjacent to the north west of the subject site and also across the street. The site would have originally formed part of the main garden plot of no. 110 North Circular Road which is a three-storey end of terrace building listed on the NIAH (Ref: 50070013 – Lorne Terrace). The majority of the buildings along Oxmantown Road are comprised of traditional red brick, two storey terraced dwellings built circa. 1860s to house railway workers within the area. The existing structure on site was constructed at a later stage circa. 1960s.

2.0 Proposed Development

- 2.1. The proposed development is to comprise:
 - extension of an additional floor to the existing property to create a 3-storey property;
 - replacement of existing pitched roof with a flat roof finish;
 - development which will accommodate a 4no. bedroom apartment split over the first and second floors;
 - 6no. balconies in total, located to the front and rear of the structure;
 - extended structure with an increase in height from 7.8m to 10.7m inclusive of the structure which houses the access staircase to the roof deck;
 - 40sqm roof deck which will allow for extended views of Oxmantown Road and Aughrim Place.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reasons:

1. *The proposed development, due to the scale of the building designed, is considered an overdevelopment of the subject site; would be incompatible with the established layout and design and would set a precedent for development which would be incompatible with the Z2- residential conservation areas zoning of the site and the established character of the area and is therefore contrary to the provision of the Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The recommendation to refuse permission in the Area Planner's Report reflects the decision of the Planning Authority.

- The proposed development density would significantly exceed the Dublin City Development Plan 2016-2022 standards in relation to plot ratio and site coverage on Z2 zoned lands.
- The area planner noted that the increased building height would significantly exceed the heights of the neighbouring residential properties.
- The scale and mass of the proposed structure would be substantially greater than the adjoining properties and would result in overlooking and overshadowing of these buildings. No shadow analysis has been submitted to demonstrate that there would not be an impact on residential amenity.
- The development would not comply with Section 16.2.2.2 of the City Development Plan in relation to appropriate infill development and would set an undesirable precedent in the area.

- The design of the development would result in an incongruous building element within the existing streetscape.
- Concerns expressed regarding the provision of external balconies that would overhang the public footpath.
- No provision of carparking or bicycle parking on site. Given the location of the development the non-provision of carparking is considered acceptable however the non-provision of bicycle parking provision is not.
- The Area Planner noted that the proposed reconfigured and enlarged 4no. bedroom unit would comply with all the standards set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018.

3.2.2. Other Technical Reports

- Roads Streets & Traffic Division – DCC – Report dated 3rd February 2020 with reference to the proposed balconies, advised that no part of the development should extend to include, encroach upon or overhang public land. Additional information requested to address this issue.
- Drainage Division – DCC – Report dated 20th January 2020 - no objection subject to conditions.

3.3. Prescribed Bodies

- Transport Infrastructure Ireland (TII) – submitted observation stating that the proposed development falls within an area set out in a Section 49 Levy Scheme for light rail. In the event of a grant of permission, if the development is not exempt from this charge then a contribution levy should be attached.
- Irish Water – No response
- Irish Rail – no response
- NTA – No response

3.4. Third Party Observations

None.

4.0 Planning History

- DCC - PA. Ref. 3367/16 – 2016 – Permission refused for attic conversion with dormer roof to the rear, reconfiguration of the gable roof construction and raising of the ridge level. Refusal on substandard level of residential amenity, amenities of Residential Conservation Area and contrary to Design Standards for New Apartments.

5.0 Policy Context

5.1. Development Plan

5.1.1. Zoning

The operative development plan is the **Dublin City Council Development Plan 2016-2022**. The site is located in an area zoned Z2 with the following objective;

'To protect and/or improve the amenities of residential conservation areas'.

5.1.2. **Policy CHC4:** To protect the special interest and character of all Dublin's Conservation Areas (outlined under Section 11.1.5.4). Development within or affecting all conservation areas will contribute positively to the character and distinctiveness; and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. Development will not:

- Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the conservation area;
- Involve the loss of traditional, historic or important building forms, features, and detailing including roofscapes, shopfronts, doors, windows and other decorative detail;
- Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors;
- Harm the setting of a conservation area;
- Constitute a visually obtrusive or dominant form.

5.1.3. **Section 11.1.5.6 – Conservation Area – Policy Application**

This section outlines the considerations that should be taken into account when examining proposals within Z2 areas and the application of Policy CHC4.

5.1.4. **16.2.1 - Design Principles**

This section provides guidance on design standards, in particular it states that development should respond creatively to and respect and enhance its context, and have regard to:

- The character of adjacent buildings, the spaces around and between them and the character and appearance of the local area;
- The character, scale and pattern of historic streets, squares, lanes, mews and passageways; and
- Existing materials, detailing, building lines, scale, orientation, height and massing, plot width.

5.1.5. **Section 16.2.2.3 Alterations and Extensions**

This section states that alterations and extensions at roof level, including roof terraces, are to respect the scale, elevational proportions and architectural form of the building, and will:

- Respect the uniformity of terraces or groups of buildings with a consistent roofline and will not adversely affect the character of terraces with an attractive varied roofline.

5.1.6. **Section 16.10.12 - Extensions and Alterations to Dwellings**

This Section provides guidance for residential extensions and states that such will only be granted where the Planning Authority is satisfied that the proposal will not have an adverse impact on the scale and character of the dwelling and not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.

5.1.7. **Appendix 17 - Guidelines for Residential Extensions**

Provides general advice and design principles for residential extensions.

5.2. National Guidance

Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities. Department of Housing, Planning and Local Government, 2018.

In particular the following standards and Specific Planning Policy Requirements (SPPR) are relevant:

- SPPR 3 – Minimum Apartment Floor Areas
- Sections 3.20 – 3.25 - Floor to Ceiling Height
- Sections 3.30 – 3.34 - Internal Storage
- Sections 3.35 – 3.39 – Private Amenity Space
- Appendix 1 – Required Minimum Floor Areas and Standards

5.3. Natural Heritage Designations

None relevant.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal, as raised in the submission from DMG Planning Consultants, on behalf of the first party appellants and can be summarised as follows:

- The current structure on site dates from 1962 and bears no relation to the historical terraced dwellings visible along Oxmantown Road which were originally built circa. 1860 to house railway workers.
- The proposed exterior would be far superior to the existing building with the use of exterior brick finish to harmonise with the typical brick finishes on the houses along Oxmantown Road.
- The main house at No. 110 North Circular Road is 5 metres above the roof height of the proposed building. The current location of the structure would have been the original site of any mews buildings associated with No. 110.

- The proposed development would be only 2 metres above the single storey Art Deco building which adjoins the site to the northeast.
- The works on the structure do not constitute overdevelopment as the additional floor would simply seek to replace the pitched roof currently in place.
- Overlooking of adjacent properties is not an issue.

6.2. Planning Authority Response

- None

6.3. Observations

- None

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, inspected the site and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Development Standards
- Design
- Residential Amenity
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The site is zoned Z2 Residential Neighbourhoods (Conservation Areas) with a Land-Use Zoning Objective Z2: *To protect and/or improve the amenities of residential conservation areas.*

7.2.2. Residential is a permissible use within this zoning category. As such the proposal is acceptable in principle, subject to the detailed considerations below.

7.3. Development Standards

- 7.3.1. The Area Planner in his report stated that the density proposed would significantly exceed the Dublin City Development Plan 2016-2022 standards in relation to plot ratio and site coverage on Z2 zoned lands.
- 7.3.2. As outlined on the application form the proposed development has a total residential floor area of 182.40sqm. The total floor area of the ground floor retail unit which also corresponds with the total site area is 91.20sqm. Therefore, in total, the proposed gross floor area of the building is 273.60sqm. The plot ratio for the site can thus be calculate at 3. This plot ratio does not comply with the indicative plot ratio standards as listed in Section 16.5 of the Dublin City Development Plan 2016 - 2022 which states that for developments within Z2 Zones an indicative Plot Ratio of 0.5 to 2.0 is the standard. It also states that higher plot ratios will only be permitted in certain circumstances, the current proposal does not fall into any of these considerations.
- 7.3.3. In addition, I have also examined the indicative site coverage standards for developments within Z2 areas which is 45%. The current structure on site has a site coverage of 100% with the entirety of the site developed. The additional second floor proposed on the building, while not adding to site coverage does add to the bulk and mass of the structure and this is discussed further in the Section 7.4 Design.
- 7.3.4. In conclusion I would concur with the Area Planner that the development as currently proposed exceeds the standards set in the City Development Plan and that the proposal submitted does not warrant deviation from these standards.

7.4. Design

- 7.4.1. Residential Conservation Area - Section 11.1.5.6 of the Development Plan outlines those considerations which should be taken into account when assessing new proposals within Conservation Areas such as Z2 Residential Conservation Areas. In particular, it is noted that all new development must have regard to the local context and distinctiveness, and the contribution to the local scene of buildings. It is also particularly important within Conservation Areas that design is appropriate to the context and based on an understanding of Dublin's distinctive character areas. New development should have a positive impact on local character.

- 7.4.2. The proposed extension to an existing two storey property would not conform with the above guidelines for Z2 area nor the design principles set out in Section 16.2.1 of the City Development Plan. In particular, by virtue of the design proposed, which is for a 3 storey modern apartment building, shows no coherence with the character of adjacent buildings and the character and appearance of the local area which is made up of traditional red brick terraced dwellings of two storeys in height (7.2 metres ridge height).
- 7.4.3. In addition, the development would also be contrary to Section 16.2.2.3 of the City Development Plan. The proposed alterations to roof level, including the roof terrace are in complete contrast to existing buildings within the immediate vicinity. The development does not respect the scale, elevational proportions and architectural form of the adjacent buildings nor respect the uniformity of the terraces along Oxmantown Road which have a consistent roofline and established character.
- 7.4.4. External Finishes - The appellant states that proposed external brick finish would harmonise with the typical brick finishes on the houses along Oxmantown Road and would be a substantial improvement to the site. The plans and elevations as presented show no details of materials or finishes. The statement on the bottom of the proposed elevations refers to 'brick finish' but no visual representation of same is presented. It is my opinion that the current proposal by virtue of its design would be inconsistent with the character, scale and pattern of the historic street and the existing traditional red brick dwelling houses along same.
- 7.4.5. Building Height - Section 16.7.2 of the City Development Plan gives general guidance on building heights for residential developments setting the maximum height at 24 metres within the Inner City. However, a prerequisite is included for existing low-rise areas stating that an appraisal of the character of the area adjoining the site should be included and that local character, density, scale, visual appearance and impact on amenities (including sunlight) need to be considered. Having considered all these matters I would have significant concerns with regard the proposed design and its scale and massing within a Z2 Conservation Area.
- 7.4.6. In conclusion, I do not believe the proposed development is an appropriate fit for the site. The proposed design which is of excessive scale and mass on such a contained

site does not respect the scale and character of the dwellings within the vicinity and the established historical character of the residential conservation area.

7.5. Residential Amenity

- 7.5.1. Design standards for New Apartments – The development proposes an additional third storey on the building and an amalgamation of the first floor with the new second floor to provide a duplex apartment with a total area of 187.2 Sqm as stated on the submitted floor plans. The Board should note that there are discrepancies with regard floor area, the gross floor area as stated on the application form is 182.40 Sqm and this figure was utilised to calculate the Plot Ratio and Site Coverage.
- 7.5.2. The Board should that there are discrepancies also in relation to the orientation of the building on the proposed floor plans (Drawing no.3). The north point on the drawings has the wrong orientation, the correct orientation can be seen on the proposed elevation drawings (Drawing no.2).
- 7.5.3. I have assessed the proposed development against the Specific Planning Policy Requirements (SPPRs) of the referenced Guidelines for Planning Authorities (2018) and its associated Appendix 1. The development complies with the minimum floor areas required for both overall apartment size, minimum floor areas and widths for individual rooms, storage provision and is dual aspect. The floor to ceiling height when measured internally also complies at 2.5m for first floor and 2.4m for second floor.
- 7.5.4. 6no. balconies are also proposed as part of the development, two on each floor on the south-western and north-eastern elevations. The two roof top balconies provide additional private amenity space which adjoins the roof top deck/garden area. Two of the proposed balconies would extend beyond the red line boundary of the site and overhang the public footpath. Concerns in relation to this overhang have been raised by the Roads Streets & Traffic Division of DCC.
- 7.5.5. While the minimum requirements in relation to apartment standards have been met, I would however have concerns in relation to the overhang from the proposed balconies and the significant change to the appearance of the building. In addition, the proposal by virtue of its design allows for additional overlooking from the proposed new balconies to the rear and front of the building and also given the

proposed increased building height would cause overshadowing of the gardens of those residential properties located to the north.

- 7.5.6. In conclusion, I have concerns with regard to the potential negative impacts that the development may have on the amenities of residential properties in this Z2 Residential Conservation Area by virtue of the potential for overlooking and impacts on access to daylight and sunlight for properties in the immediate vicinity.

7.6. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to 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.

8.0 **Recommendation**

- 8.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

9.0 **Reasons and Considerations**

1. Having regard to the nature and scale of the proposed development and the provisions of the Dublin City Development Plan 2016-2022, it is considered the proposed development, by reason of its excessive height relative to surrounding buildings, its bulk and massing and its design would constitute overdevelopment of the site and would be out of character with the pattern of development in the vicinity. The proposed development is considered to be contrary to Policy CHC4 of the Development Plan and would constitute a visually discordant feature that would be detrimental to the distinctive architectural and historic character of this Z2 Residential Conservation Area.

The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Máire Daly
Planning Inspector

22nd June 2020