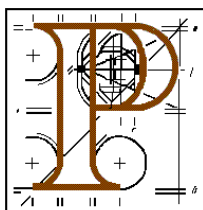


An Bord Pleanála



Inspector's Report

Appeal Ref. PL 29S.245703

Location: 43 Lower Clanbrassil Street, Dublin 8.

Proposed Development: Demolition of existing sheds and existing boundary wall and the construction of three houses with all associated site works.

Planning Application

Planning Authority: Dublin City Council.

Planning Authority Reg. Ref.: 3414/15

Applicant: CBH Lacking Property Holdings Limited

Application Type: Planning permission

Planning Authority Decision: Grant permission

Planning Appeal

Appellant(s): Patrick and Josephine Kenny.

Observers: Pat Slater.

Date of Site Inspection: 7th January, 2016 and 20th January, 2016

Inspector: Stephen Kay

1.0 Site Location and Description

- 1.1 The appeal site is located on the eastern side of Clanbrassil Street in Dublin 8, close to the north of the junction with Vincent Street. The site has frontage onto Clanbrassil Street and also has an access from Vincent Street.
- 1.2 The stated area of the appeal site is 480 sq. metres and the site is largely surrounded by existing development. To the south west, the site is bounded by a three storey apartment building (Lombard Court) which fronts almost directly onto Clanbrassil Street. There is an open area to the rear of this building which forms the southern boundary of the appeal site to the west of the vehicular access off Vincent Street. To the east of the access, the site bounds the rear of single storey cottages at Nos. 1 and 2 Vincent Street.
- 1.3 To the north, the frontage onto Clanbrassil Street adjoins a two storey residential over ground floor retail building which appears to currently be vacant. To the north of the central part of the site is located a three storey apartment development (1-14 Rosedale Terrace) the gable end of which faces towards the appeal site. This development has a basement car park which is accessed from Rosedale terrace to the north of the site. To the north east of the site are located terraces of predominately single storey dwellings that include the properties owned by the third party appellant and observer in this case.
- 1.4 The appeal site is currently unoccupied and has an open undeveloped area located at the western end fronting onto Clanbrassil Street. The centre part of the site is occupied by a run-down warehouse building and there are further unoccupied / unused shed buildings located at the eastern end of the site. The gable end of the Rosedale Terrace building directly overlooks the appeal site.

2.0 Proposed Development

The proposed development comprises the demolition of the existing structures on the site and the development of three residential dwellings on the site. Two of these dwellings are proposed to be located fronting onto Clanbrassil Street and the building line in this location would match that of the Lombard Court Development to the south. The two proposed dwellings in this part of the site are three storey four bedroom dwellings and open space is proposed to be provided in the form of balconies at first floor level to the rear and also an area of open space to the rear at ground floor level.

At the eastern end of the site a two storey three bedroom dwelling is proposed. Access to this property would be via the existing laneway from Vincent Street. This dwelling is proposed to have an L shaped floorplan with an area of open space located at the far south east corner of the site and a monopitch roof profile.

The total net floor area of the three dwellings proposed is stated to be 434 sq. metres. The stated area of the existing structures on site to be demolished is 128.4 sq. metres.

No dedicated car parking on or off site is proposed as part of the development.

3.0 Planning History

There is no record of any planning history on the appeal site.

4.0 Planning Authority Assessment and Decision

4.1 Internal Reports

Planning Officer – Notes the proposed use of first floor balcony which is considered acceptable in this instance. Also notes the layout of open space and the lack of on site car parking. The layout of Unit 3 adjacent to the cottages to the south also noted. Concluded that the proposed development would not impact on residential amenity and would be acceptable. A grant of permission consistent with the Notification of Decision which issued is recommended.

Drainage Division – No objection subject to conditions.

Roads and Traffic – Notes the fact that no on site car parking is proposed however this layout is considered acceptable given the central location of the site.

4.2 Decision

A Notification of decision to Grant Permission was issued by the Planning Authority subject to ten conditions which are of a standard nature.

5.0 Grounds of Appeal

A third party appeal has been submitted and the following is a summary of the main issues raised in this appeal submission:

- That the 6.1 by 2.6 metre patio area that is located to the rear of the appellants dwelling is the only area of open space available.,
- That the main living areas in the house currently have a good standard of light due to the design of the refurbishment undertaken in 2000. The eastern boundary of the appeal site immediately adjoins the rear of the appellant's property and the proposed development would result in an 8.4 metre high

monopitch roof being located immediately to the south west of the appellants property.

- That the proposed development of unit 3 will also have a significant negative impact on Nos. 1-3 Vincent Street.
- That the height of the mono pitch roof to unit No.3 would result in a visually over bearing feature to the appellants property.
- Unit No. 3 would directly overlook the properties at Nos. 1-3 Vincent Street.
- That the proposed development does not have an adequate level of open space leading to over development of the site and the negative impact on residential amenity of surrounding properties.
- The development would therefore be contrary to the Objective Z1 residential zoning objective for the site.
- A suggested amendment is that Unit No.1 would be amended to a single storey unit and that the ground floor of this unit is such that the layout could be made into a one bedroom unit. This change would prevent the adverse impact on the amenity of the appellant's property and on Nos. 1-3 Vincent Street.

6.0 Observer to Appeal

An observation of the third party appeal has been submitted by the resident of No.12 Oakfield Place, the dwelling immediately adjoining that of the third party appellant. The following is a summary of the main issues raised in this appeal:

- That the development will reduce light and the view of the sky available. Light is very important given the small size of the accommodation.
- That the observer's property is already adjoined and overlooked by the three storey apartment building to the north. This proposed development will make this enclosure and overlooking worse.

7.0 Response Submissions

7.1 Planning Authority Response to Grounds of Appeal

No response to the grounds of appeal on file.

7.2 First Party Response to Grounds of Appeal

The following is a summary of the new issues raised in the response submission made on behalf of the first party:

- That the proposed development would result in some additional overshadowing of the appellants rear garden and property however the main impact in terms of overshadowing arises from the adjacent apartment development at Nos. 1-14 Rosedale Terrace.
- That the first party would not have any objection to a reduction of the overall height of the roof of Unit 3 with a reduction of 750mm in the main roof span and 580 on the shorter roof span proposed. Drawings showing these amendments have been submitted with the appeal response.

7.3 Third Party Response to First Party Submission

The response of the first party to the third party grounds of appeal was circulated to the third party appellants, the observer and to the Planning Authority for comment. A response was received from the third party appellants, the content of which can be summarised as follows:

- That the applicants acknowledge that the appellant's property will be overshadowed by the development. The reduction in the height of the roof spans propose would not reduce the amount of overshadowing that would arise.
- That the comment regarding the existing overshadowing impact arising from the adjoining apartment block is not a justification for development that would result in additional overshadowing.

8.0 Development Plan Policy and Guidance

8.1 Dublin City Development Plan, 2011-2017

The appeal site is zoned Objective Z1, '*to protect provide and improve residential amenities*' under the provisions of the Dublin City Development Plan, 2011-2017. Under this land use zoning objective residential development is classified as Normally Permissible.

Paragraph 17.9.7 of the Plan relates to Infill Housing and states that such developments will be permitted if they comply with other relevant development plan standards. Such standards may be relaxed in certain circumstances.

None of the buildings on the site are included on the record of protected structures.

8.0 Assessment

The main issues arising are considered to be as follows:

- Principle of Development
- Design and Impact on Residential Amenities
- Access and Parking Provision
- Other Issues

8.1 Principle of Development

8.1 The appeal site is located on lands that are zoned Objective 1 under the development plan with an objective 'to protect provide and improve residential amenities'. Residential development is listed as a normally permissible use on lands zoned Objective Z1.

8.2 The appellants contend that the proposed development would be contrary to the residential zoning objective for the site given the impact that it would have on residential amenity and this will be considered in more detail in the sections below.

8.2 Design and Impact on Residential Amenities

8.2.1 The design of the development incorporates two dwellings fronting onto Clanbrassil Street and a further dwelling located at the rear of the site. The units fronting Clanbrassil Street are in my opinion acceptable in terms of scale, design and materials. The scale matches that of the adjoining apartment development to the south and the fenestration and presentation to the street is acceptable.

8.2.2 To the rear, the dwellings fronting Clanbrassil Street are proposed to have balcony's at first floor level. These balcony's would not have any adverse impact on the amenity of the dwellings on either side however they would face the apartment block to the east at Nos. 1-14 Rosedale Terrace. The separation between the apartment building and the proposed first floor balconies is c. 13 metres which is close. Subject to the screening of the sides of the balcony and given the fact that the rear of the proposed houses does not directly oppose the apartment building and the central location of the site, the separation is considered acceptable and is not such that it would have a significant adverse impact on residential amenity.

8.2.3 In addition to the open space proposed to be provided in the balconies, Units 1 and 2 fronting Clanbrassil Street are proposed to have private amenity areas to the rear of the house measuring c. 56.5 sq. metres in total between the two units. The total private amenity space for these two dwellings is therefore proposed to be c. 70.5 sq. metres comprising 56.5 garden area and 14 sq. metres of balcony space. The dwellings

are stated in the report of the planning officer to accommodate 7 bedspaces however all bedrooms could really be doubles. The Planning Officer states that the area of private amenity space proposed for each unit at c. 35 sq. metres is acceptable in that it meets the minimum development plan standard of 5 sq. metres per bedspace. Under section 17.9.1 of the development plan, 5 sq. metres is the minimum private amenity space for apartments and then only those located in the city centre or docklands. The amenity space for dwellings – houses is set out at section A3 of 17.9.1 and states that a minimum private amenity space of 15 sq. metres per bedspace would normally be required. For a seven bedspace dwelling this would equate to 105 sq. metres. While 105 sq. metres of private amenity space may be considered excessive given the location of the appeal site, it is my opinion that 35 sq. metres of private amenity space is inadequate for a dwelling of the scale proposed, especially when part of this amenity space is proposed to be provided in a balcony.

- 8.2.4 Unit No.3 at the eastern end of the appeal site is proposed to be a two storey three bedroom dwelling with what is identified on the plans as a study at ground floor level which could also be used as a bedroom. Private amenity space for this dwelling is proposed to be provided in two areas located to the west and south east of the dwelling with a total of c.76.5 sq. metres proposed to serve the 6 no. bedspaces.
- 8.2.5 The third party appellants and the observer to the appeal contend that the proposed two storey structure located at and close to the eastern end of the site would have a significant adverse impact on the amenity of their properties due to overshadowing and overbearing visual impact. The eastern part of the proposed dwelling No.3 is located such that it immediately adjoins the boundary with the appellant's property. The proposed two storey element would be located directly to the south west of the appellants dwelling. The amenity of the appellants dwelling is already compromised by the impact of No.1-14 Rosedale Terrace which is located to the west and which forms a visually overbearing structure when viewed from the yard at the rear of the appellant's property. This building also acts to limit the penetration of light to the rear of the appellants dwelling. To permit the second floor of the proposed unit 3, particularly the eastern part containing the en suite bedroom would in my opinion act to further reduce the amenity of the appellant's property.
- 8.2.6 The first party has proposed that the roof level of Unit 3 would be reduced slightly and that this would reduce any potential impact on light to the appellant's property. In my opinion the reduction in height would not make a significant difference to the likely impact and it is therefore my opinion that the and I therefore consider that the southern part of the first floor of Unit No.3 which contains the en suite bedroom, should be omitted from the development by way of condition. In addition, it is considered appropriate that the height of the main part of the roof of Unit 3 would be reduced 750mm as per the revised proposals submitted to the Board on 2nd December, 2015.
- 8.2.7 The omission of the en suite bedroom to Unit 3 would make this into a two bedroom / four bedspace dwelling. The 75 sq. metres of private

amenity space currently proposed for this unit could therefore be reduced slightly and the area transferred to Units 1 and 2. It is suggested that the western boundary of No.3 would be relocated 2 metres to the east thereby reducing the private amenity space for Unit 3 from c. 75 sq. metres to c. 57 sq. metres and increasing the amenity space for Units 1 and 2 from 35 sq. metres each to c. 43 sq. metres. Unit 3 would then almost meet plan standards while Units 1 and 2 would still be significantly below plan standard for private amenity space. The only option to get close to plan standard for Units 1 and 2 would be a reduction from three to two storey and from 4 bedroom units to two bedrooms. On balance, given the city centre location of the site and the nature of the accommodation proposed in units 1 and 2, I do not consider that this reduction in the scale of accommodation is justified.

- 8.2.8 The internal layout of the accommodation of all three units is in accordance with the accommodation standards set out in 17.9.1 of the Plan.

8.3 Access and Parking Provision

- 8.3.1 The development does not incorporate any off street car parking. Car parking on street is available on Vincent Street South, with permit parking for residents. The report on file from the Roads and traffic Planning Division of the council notes however that there is no entitlement to parking permits for residents of the development. The traffic planning division does not object to the lack of car parking provision.
- 8.3.2 The development plan states that the appropriate parking provision is 1 space per unit in Zone 2 (where the appeal site is located) however this is a maximum standard and the main purpose of parking spaces in centrally located developments is the availability of space for the storage of a car that may be used at certain times but not necessarily for regular use. The absence of car parking from the proposed development is not in my opinion a basis for refusal of permission given the central location of the site and the availability of public transport. With regard to concerns about the lack of on street parking and impact on existing residents I note the fact that the Traffic Planning Division state that there is not an automatic right to a parking permit for residents of any new development. I would also note the fact that there would appear to be scope for the provision of an off street parking space(s) to serve Unit 3 although it is not clear from the submitted drawings whether the provision of parking in this location is proposed.

8.4 Other Issues

- 8.4.1 The appeal site is located within the area covered by the metro North Development Contribution Scheme. The application of this scheme to the development has not been commented on in the appeal submissions received. In the event of a grant of permission it is recommended that a condition requiring a financial contribution in respect of Metro North would be attached.
- 8.4.2 No screening for appropriate assessment was submitted with the application and no screening assessment was undertaken by the Planning Authority. In my opinion given the relatively limited 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.
- 8.4.3 The reduction in the floor area of No.3 would reduce the overall floor area of the development by 24 sq. metres. The floor area on which the s.48 development contribution would be calculated is therefore 282.4 sq metres (410.8 – 128.4 allowance for demolition on site) and at a rate of €86.40 per sq metre of residential development this gives a s.48 contribution amount of €24,399.36. The contribution in respect of the supplementary development contribution for Metro North is unchanged from that in the Notification of decision to Grant Permission issued (€6,000).

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

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 2nd day of December, 2015 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 proposed development shall be amended as follows:
 - (a) The first floor accommodation in Unit No.3 comprising Bedroom 3 and en suite bathroom shall be omitted from the development and the ground floor accommodation in this area shall be roofed with a flat or shallow pitch roof.
 - (b) The monopitch roof on the remaining part of the first floor of Unit No.3 shall be lowered by 750mm as indicated in the revised drawings submitted to An Bord Pleanála on 2nd December, 2015.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity.

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. Site development and building works shall be carried only out between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

5. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of private amenity space is retained for the benefit of the occupants of the dwellings.

6. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. All service cables associated with the proposed development shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

8. All rear gardens shall be bounded with 1.8 metre high concrete block walls, suitably capped and rendered, on both sides, or by 1.8 metre high timber fences with concrete posts.

Reason: In the interests of residential and visual amenity.

9. The following details shall be submitted prior to the commencement of development:

- (a) A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened bin stores, which shall accommodate not less than 3 standard-sized wheeled bins within the curtilage of each house plot.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, construction traffic access, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

11. The developer shall pay to the planning authority a financial contribution of €24,399.36 (twenty four thousand three hundred and ninety nine euro and 36 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. The contribution shall be paid prior to the 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 the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 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.

12. The developer shall pay to the planning authority a financial contribution of €6,000 (six thousand euro) in respect of the Metro North Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the 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 the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Stephen Kay
Inspectorate
29th January, 2016