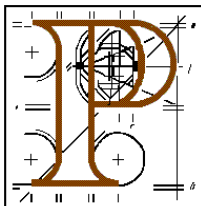


An Bord Pleanála



Inspector's Report

PL06D.245791

DEVELOPMENT: - Demolition of commercial building and construction of two storey house with external courtyard, shed and all site works at Adelaide Place to rear of 20A Adelaide Avenue, Dun Laoghaire, Co. Dublin

PLANNING APPLICATION

Planning Authority: Dun Laoghaire Rathdown County Council
Planning Authority Reg. No.: D15A/0559
Applicant: Arthur Magan
Application Type: Permission
Planning Authority Decision: Grant Permission

APPEAL

Appellant: Catherine Flood
Type of Appeal: Third v Grant
Observers: None
DATE OF SITE INSPECTION: 11th February 2016
INSPECTOR: Mairead Kenny

SITE LOCATION AND DESCRIPTION

The site is close to Dun Laoghaire town centre in an established residential area. The site is at Adelaide Place, which is a lane serving the rear of Haigh Terrace and Adelaide Street. At the northern end of Adelaide Place is the National Maritime Museum of Ireland. To the south are some terraced houses which appear to date to the 1980s.

The stated site area is 0.0138 hectares. The existing commercial building on site is stated to be 98 square metres in area. It has a shallow pitched roof which slopes towards the rear garden of 20 Adelaide Street. The site is part of the original garden of 20A Adelaide Street. The latter is a two-storey over basement end of terrace house which has been extended to the rear at Ground and basement levels. The roof of the basement is laid out as a patio. A vehicular access gate serves the rear of the house. The garden of the adjacent house no. 20 Adelaide Street is not developed. It appears to be used as a patio area and there is also a small shed at this location.

Photographs of the site and surrounding area, which were taken by me at the time of my inspection are attached.

DESCRIPTION OF PROPOSAL

Permission is sought for:

- demolition of a commercial building
- construction of a part two storey part single storey two bedroom dwellinghouse
- the stated area of the house is 112 square metres
- a shed of stated area of 8 square metres is proposed
- a courtyard with a sliding metal gate is proposed
- site works.

PLANNING HISTORY

The pre-application consultation noted that the omission of parking would be acceptable. The proposed 44 square metre open space would be acceptable. The prospective applicant was advised to ensure that the north facing staircase window be opaque to prevent overlooking.

Under Planning Reg. Ref. D14A/0754 permission was refused by the Planning Authority for a mews house at this site. The house was of stated area of 127 square metres. The reason for refusal related to scale, mass, height and proximity to boundaries with 20 Adelaide Street and 20A Adelaide Street and lack of open space.

Under Planning Reg. Ref. 712/90 (5715/84808) permission was granted by the Board for a single storey office building.

Under Planning Reg. Ref. 476/87 (5715/75046) permission was refused by the Board for a two storey building for use for business lectures. The reason for refusal related to impact on 20A Adelaide Street and parking.

A certification of exemption from the requirements of Part V has been granted – reference V/097/14 refers.

PLANNING POLICY CONTEXT

Policies RES4 and RES6 refer.

Section 16.3.4(ix) sets out policy and standards related to mews lane development.

Special local objective 20 to allow for office development applies.

The site is within the Haigh Terrace to Mellifont Avenue Architectural Conservation Area. Guidance for new development in this area is set out in section 7.0 of the Character Appraisal. This refers to appropriately scaled, imaginative high quality proposals which enhance the area. Contemporary designs that are complementary and / or sympathetic to scale and context will be encouraged. Maintenance of overall integrity of the urban grain is an objective.

SELECTED INTERNAL AND OTHER REPORTS SUBMITTED TO PLANNING AUTHORITY

The report of the **Case Planner** includes the following comments:

- existing building appears two-storey and has a flat roof on the laneway side
- existing building has a shallow monopitch roof sloping away from the north-east site boundary and appears as a single storey structure from north-east
- differences between current and previous scheme include reduced scale and mass, garage omitted, set back from northern site boundary, setback from eastern site boundary, revised fenestration, 48 square metres courtyard proposed, roof terrace removed
- the previous reason for refusal is overcome and the development complies with planning policy and does not detract from residential amenity.

The report of **Transportation Planning Section** indicates no objection subject to construction phase requirements.

The report of **Drainage Planning Section** indicates no objection subject to conditions.

Third party objections to the Planning Authority (3 no.) relate to:

- overdevelopment

- height and bulk
- overshadowing and unacceptable impact on 20 Adelaide Street
- analogy with mews on Mariners Court is spurious
- detract from patio at 20A Adelaide Street by reason of overshadowing, overlooking and overbearing
- drawings inaccurate
- detract from ACA and does not improve the area.

DECISION OF PLANNING AUTHORITY

The Planning Authority decided to grant permission subject to conditions including:

- no exempted development under Class 1 or Class 3
- construction phase measures
- surface water drainage
- use as a single dwellinghouse
- contributions.

GROUND OF APPEAL

The appeal has been submitted on behalf of the owner/occupier of 20A Adelaide Street. The grounds of appeal include:

- the development by reason of its height, location, internal layout and incorporation of a large window in the south-eastern elevation will result in direct overlooking in particular of the appellant's patio, which is the only private open space associated with the house and which is completely private
- proposed development would therefore seriously detract from amenities and value of the house and be contrary to the zoning objective
- there are no windows on the south-eastern side of the existing building
- the main concern relates to the proposed 1st floor window in the living accommodation which will facilitate direct overlooking at a distance of 8m
- this window will afford 180 degree views including into the Flood property
- the separation distance of 13.5m and 16.5m to the kitchen and bedroom respectively are insufficient to protect privacy and are less than the 20m policy
- it is not clear how an allowance of 15m can be allowed
- the proposed development would also negatively impact on 20A and 20B Adelaide Street and 2 Haigh Terrace.

RESPONSES TO APPEAL

The **Planning Authority** has indicated no further comments will be made.

The response on behalf of the **first party** includes the following comments:

- the first floor living room orientation overlooks the laneway and is in the corner of the living room and views of the patio are therefore very limited
- if required a condition could be attached requiring an opaque 1.2m high glass screen on top of the wall between the outside store and the gate entrance to 20A Adelaide Street
- the minimum separation between the rear of 20A Adelaide Street and the mews building is 16.5m which exceeds the minimum of 15m
- overshadowing of 20 Adelaide Street is addressed in response to the Loughlin appeal
- the separation between 20B Adelaide Street and 2 Haigh Terrace accords with the development plan
- the development will not result in adverse impacts on the amenity of residents and is not contrary to the zoning objective
- the proposed development is of high architectural design in this Architectural Conservation Area.

ASSESSMENT

I consider that the main issues in this appeal are:

- impact on residential amenities at adjacent sites
- impact on character of the Architectural Conservation Area
- other matters.

Impact on the adjoining properties

The Planning Authority is of the opinion that the recent reason for refusal has been overcome. I agree that in terms of the impact of the development on the residential amenities of the adjacent properties the development is materially altered. The significant changes include a 2m setback from the north-eastern site boundary at first floor level and removal of the roof terrace.

In relation to the planning history I note comments by third parties which refer to the detailed design of the building for which permission was previously refused by the Planning Authority and the Board on appeal. I do not consider that application and appeal, which date to 1987 are relevant having regard to the changed policy context in

the interim. The Board is not bound by any previous decision related to this or any other site and it is appropriate that this case be considered on its own merits.

In relation to the impact on 20A Adelaide Street I note that the proposed two-storey house would include a large courtyard over which there would be views from the appellant's patio. I consider that the outlook from that private amenity open space would not be diminished. The development gives rise to an increased separation to the between the building on site and the raised patio at the appellant's house. The increased distance would compensate for the increased scale of the building when viewed from the appellant's house, in my opinion.

The potential for overlooking from the first floor window appears to be the main concern in this appeal. I agree that in theory the available views from the first floor window are 180 degrees. However, I also agree with the first party that the orientation of the window is significant. I concur with the applicant that direct views would be to the lane and gate and the only views to the patio would be oblique. Given the orientation of the window together with the 8.5m separation to the edge of the patio, I do not consider that significant overlooking would result.

If the Board disagrees with this conclusion there are a few options to revise the design. I am unconvinced by the first party proposal submitted in response to the appeal comprising a 1.2m glass screen above the courtyard wall – this could have adverse consequences in terms of the view from the patio and would appropriately be subject of public notices or referral to the appellant. However, if the Board has concerns relating to overlooking I recommend that the proposal be circulated to the third party for comment. In the alternative the Board might wish to consider requiring that this window be of opaque glass as there are other large windows in the first floor open plan area. My conclusion is that the development as submitted to the Planning Authority is acceptable and that the very limited degree of overlooking which might arise does not warrant revision of the scheme design.

In relation to the development plan policy I consider that the relevant section 16.4.2(ix) which sets out standards for mews developments puts emphasis on the achievement of privacy. In view of the detailed design of the proposed house I consider that this objective is achieved.

The adjacent house to the north (20 Adelaide Street) adjoins the site. The owner/occupiers appeal was invalid. The Board is referred to the submission to the Planning Authority with the current application and under Planning Reg. Ref. D14A/0754. The section drawings together with the photographs are especially relevant. Compared with the existing building the proposed development differs in

terms of its mass and position. In particular the pitched roof which slopes down to the boundary wall at 20 Adelaide Street is replaced with a two- storey element of 8.2m width, which is setback by 2.0m. I do not consider that the development would be viewed as overbearing in nature due to its position. The high level window will not give rise to overlooking. The potential for overshadowing is the most significant concern and this is addressed in the report of ARC Architectural Consultants. The latter indicates that in a worst case scenario, shadows cast by the proposed development would have a moderate impact. I agree with the assessment in the report and I consider that the impact is acceptable and complies with the relevant standards. In conclusion I consider that the proposed development does not significantly detract from the amenities of 20 Adelaide Street.

The potential impact on 20B and 2 Haigh Terrace are lessened by relative locations and distance from the proposed development. I do not consider that either house would be significantly adversely affected.

Architectural Conservation Area

I note that the Conservation Officer is reported to have no objection to the proposal. In addition the Case Planner's report refers to section 7.0 of the ACA, which presents guidance for New Build.

I agree with the conclusion of the Case Planner that the design complies with the relevant guidance. The relevant criteria includes the provision of appropriately scaled, imaginative high quality proposals which enhance the area. Contemporary designs that are complementary and / or sympathetic to scale and context will be encouraged. Maintenance of overall integrity of the urban grain is an objective. I consider that the applicant's proposal conforms to these guidelines and complies with the policy provisions.

While a letter of objection from owner / occupants of 19 Adelaide Street refers to sections of the ACA policy which comment on the open nature of the area between Adelaide Street and Haigh Terrace, I submit that there is no policy which excludes any development of this area notwithstanding the reference to the open gardens at 19, 20 and 20A Adelaide Street.

In terms of the design of the proposed development, including its mass, height, external finishes and relationship with the nearby buildings, which includes protected structures and is within an ACA, I consider that the development is acceptable.

Other issues

The proposal is acceptable in terms of the residential amenity afforded to future occupants having regard to the 48 square metres private open space, the internal layout of the house and the outdoor storage shed.

I consider that the external finishes are adequately specified on the drawings and that a condition requiring agreement is not necessary.

I concur with the conclusion of the Planning Authority in relation to the lack of off-street parking, which I consider is acceptable. I note also the comment in the report of the Transportation Planning Section which states that a car could park in the courtyard. The site is well served by public transport and the development is acceptable notwithstanding the lack of off-street parking.

A report submitted to the Planning Authority indicates that the flood risk at this site is 'Very Low'.

In view of the built up character of the site and area and having regard to the nature of the proposal I do not consider that Appropriate Assessment issues arise in this case.

I note comments in relation to the accuracy of the drawings and in particular of the height of the building. I find no evidence of inaccuracies in the drawings which would be deemed to be substantive in terms of the assessment of this appeal.

RECOMMENDATION

I recommend that permission be granted for the reasons and considerations and subject to the conditions below.

Reasons and Considerations

Having regard to the nature, scale and detailed design 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 residential or visual amenities of the area or of property in the vicinity, would respect the character of the Architectural Conservation Area 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.

CONDITIONS

1. The development shall be carried out 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. 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 rear garden space is retained for the benefit of the occupants.

3. Water supply and drainage arrangements, including the 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. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

5. 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, including noise management measures, on site car parking for construction vehicles and off-site disposal of construction/demolition waste.

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

6. The developer shall pay to the planning authority a financial contribution 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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme.

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.

Mairead Kenny

Senior Planning Inspector

22nd February 2016