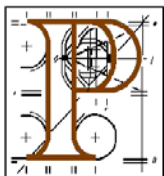


An Bord Pleanála



Inspector's Report

Appeal Reference No: PL29S.246213

Development: Retention of building and construct a new 4 storey apartment building with roof top garden at 25 Lower Mount Pleasant Avenue/Corner of Richmond Hill, Dublin 6.

Planning Application

Planning Authority: Dublin City Council
Planning Authority Reg. Ref.: 3645/15
Applicant: Roy Turner
Planning Authority Decision: Grant Permission

Planning Appeal

Appellant(s):
1) James Osbourne
2) Trevor and Susan Jane White
3) Andrew and Jane Hall

Type of Appeal: Third Party

Observers:
1) Niamh and Brendan McGreen
2) Fiona McHugh and Paul Byrne

Date of Site Inspection: 24th of May 2016

Inspector: Angela Brereton

1.0 SITE LOCATION AND DESCRIPTION

The site is located on the corner of No.25 Lower Mount Pleasant Avenue and Richmond Hill between Ranelagh and Rathmines. The existing premises is an end of terrace two storey building that is currently in retail use with stores at ground level 'Cullen's Corner Shop' and residential use at first floor level. No.26 Mount Pleasant Avenue is a two storey terraced property to the north of the site and this is subdivided into three apartments which adjoin Nos.27&28, a larger three storey premises with a public house at street level and upper floors of offices and apartments. There are two three storey apartment blocks to the west of the site and a private carpark (Richmond Manor). The rear gardens of the houses and pedestrian entrance to Mount Pleasant Square are located on the opposite side of the road to the east.

Richmond Hill/Mount Pleasant Avenue are relatively narrow, busy routes with extensive double yellow lines and some restricted on-street parking; limited off street parking is available. The LUAS is c.400m away. The Grand Canal is c.300m to the north.

2.0 PROPOSED DEVELOPMENT

This proposal is for the demolition of the existing building and construction of a new 4 storey apartment building with roof top garden. The following elements are included in the description of development:

- The demolition of existing building of ground floor retail premises and stores, first floor residential apartment on a site area of 147.7sq.m:
- The change of use of Ground Floor Retail Area 99.84sq.m to residential use;
- The construction of a new four storey apartment building which will consist of 3no. apartments comprising:
 - 1no. one bedroom duplex apartment with balcony 74.7sq.m,
 - 1no. two bedroom duplex apartment with balcony 94.9sq.m;
 - 1no. three bedroom duplex penthouse apartment with balcony and private garden 118sq.m;
- The development will include a roof garden for use by all residents of the apartments;
- It will replace an existing end of terrace building no.25 Lower Mount Pleasant Avenue;
- 3no. garaged parking spaces are proposed for the development at ground floor level with 2no. spaces accessed from Richmond Hill and 1no. space access from Lower Mount Pleasant Avenue;
- A bicycle store to accommodate 4no. bicycles;
- A separate bin store is proposed within the building at ground floor level accessed from Richmond Hill.
- The main access to the apartments is proposed on Lower Mount Pleasant Avenue and will have a glazed projecting canopy.

As given on the application form 147.7sq.m is proposed for demolition, and 423.4sq.m is proposed within the redevelopment. The proposed plot ratio is 2.86 and the proposed site coverage is 100%.

A Site Layout Plan, Floor Plans, Sections and Elevations showing the existing to be demolished (includes photographs) and proposed development, has been submitted. A Drainage Layout Plan which includes the proposed parking layout has also been submitted.

Details providing a description of the Proposed Development have been submitted with the application. Other documents include:

- A Flood Risk Assessment & Drainage Report by Kavanagh Mansfield & Partners Consulting Structural and Civil Engineers - dated September 2015.

3.0 PLANNING HISTORY

The Planner's Report notes that there is no relevant planning history on record.

- Ref.0305/15 provides a Declaration of Exemption from Part V of the Planning & Development Act 2000 (as amended).

Other proximate sites

- Reg.Ref.3147/13 –Permission refused by the Council for change of use from offices to two apartments at second floor level plus balconies and the introduction of balconies at first floor level and alterations to the rear elevation at nos.27/28 Lower Mount Pleasant Avenue. This was subsequently refused by ABP for reasons of substandard development contrary to the DCDP and to the 2008 Residential Guidelines – Ref. PL29S.242655 refers.

A copy of this decision is included in the Appendix to this Report.

- Reg.Ref.2004/16 – Permission refused by the Council for Demolition of buildings, construction of 2/3 & 4 storey building to provide apartments and reconfiguration of building to provide 7no apartments in total at no.27-28 Mount Pleasant Avenue. This site while not adjoining is proximate and to the north of the subject site. It is now the subject of a current appeal to the Board – Ref. PL29S.246364 refers.

4.0 PLANNING AUTHORITY APPLICATION

Technical Reports

Road Planning Division

They do not object and note on-site parking is to be provided and recommend a number of conditions.

Engineering Department – Drainage Division

They do not object to this proposal and recommend standard conditions.

Submissions

Concerns raised by a number of local residents include the following:

- Invalid application – issues concerning the red line boundary shown.
- Inadequate information concerning the nature of the development.
- This proposal is of an excessive scale and constitutes an overdevelopment of this confined site.
- The height, bulk and massing of the building will impact on the amenities of adjoining properties.
- Multi-storey apartments are unsuited to this area and the overall design and layout is poor and substandard.
- Issues of overlooking (roof garden), loss of privacy and overshadowing and additional noise.
- The proposal is not in line with the streetscape and will restrict visibility and detract from this corner site.
- Of particular concern is the change of use of the unit from retail to residential, and loss of this corner shop which provides a service to the community.
- Parking and traffic congestion and hazard are of concern in this area.
- Impact on pedestrian safety using Mount Pleasant Square.
- Adverse impacts on the road network during construction period.
- Concern regarding any impact on the Swan River that flows underground close to the site.
- The proposed development would impact adversely on adjacent residential properties and would not comply with the land-use zoning.
- The proposal will impact adversely on adjacent residential properties and the character of this more traditional residential area and detract from the Protected Structures in the area.

The Planner's Report

The Planner had regard to the locational context of the site, planning history and policy and to the internal reports and the submissions made. They noted that this corner site is very visually prominent. They considered that the visual impact of the scheme is difficult to access fully without more detailed drawings. They noted the concerns regarding plot ratio, overlooking, proposed materials, overhanging glass canopy, bike storage etc and advised that the scheme be reviewed. The applicant was requested to submit further information to include regard to the following:

- Plot Ratio and Site Coverage;
- Revisions to design and layout relative to overlooking issues;
- Details of external finishes to be submitted for this prominent site location;
- To comment on the usability and limited area of the garage spaces and bike storage area;
- To ensure that all bedroom sizes are in compliance with standards and are screened off appropriately from the proposed communal terrace.

Further information response

Patrick Power Design Associates submitted a response on behalf of the applicants to include the following:

- A Schedule of Revised Drawings;
- They consider that the proposed Plot Ratio is not excessive having regard to other developments in this area and that the proposed wraparound development addresses this corner site;
- It will not create overshadowing, loss of light and the requirement for open space for the development is being met.
- It is not detrimental to the residential amenities of the area.
- They have reviewed the western elevation of the proposal and have reduced the number and size of windows proposed.
- The garage doors have been increased in width and the bike storage area complies with appropriate standards.
- The bedroom sizes are now shown to comply with standards and privacy is respected.

Planner's response

The Planner had regard to the Further Information submitted, including the revisions to the drawings. They note that having regard to the prominent location of the site that the applicant has submitted Photomontages and details on high quality external finishes. They did not consider it appropriate to reduce a floor given the quality of the material proposed and given that the penthouse level is set back in from the development. They considered that the patinated copper cladding element that projects out at third floor level is adding to bulk and scale and should be omitted. They noted all the information submitted and considered that the issues of concern had been addressed and that the proposal is consistent with the proper planning and development of the area and recommended that permission be granted subject to conditions.

5.0 PLANNING AUTHORITY DECISION

On the 5th of February 2016 Dublin City Council granted permission for the proposed development subject to 12no. conditions. These include the following:

- Condition no.2 – Development Contributions
- Condition no.3 – Provides for the omission of the patinated copper cladding element that projects out at third floor level.
- Condition no.4 – Details of external finishes.
- Condition no.7 – Restriction of the carpark area for use of the occupiers of the apartments.
- Condition no.8 – Compliance with Roads and Traffic Division requirements
- Condition no.9 – Compliance with Drainage Division requirements.
- Condition no.12 – Construction Management Plan.

6.0 GROUNDS OF APPEAL

Three separate Third Party Appeals have been submitted on behalf of local residents. These are summarised as follows:

6.1 James Osbourne

Declan Brasil & Co. Ltd. Chartered Planning Consultants have submitted a Third Party appeal on behalf of James Osbourne who resides at no.30 Mount Pleasant Square. This includes the following:

- The proposed development represents a gross overdevelopment of the site.
- It is excessive in height, scale and massing, site coverage and density and is inconsistent with the established building line on Richmond Hill.
- There will be full site coverage and plot ratio is too high and exceeds standards.
- It presents a substandard aspect to the public streets, particularly at ground floor, and fails to replace the established active street frontage and passive surveillance.
- It would provide a seriously substandard level of residential amenity for future occupants.
- Apartment 2 incorporates a 'study' which will inevitably be used as a bedroom.
- The roof terrace provides a poor open space for the future occupants.
- It would adversely impact on the residential amenities of adjoining and adjacent properties by reason of overlooking.
- It detracts from the setting and appearance of an adjacent Victorian building.
- It compromises the development potential of the adjoining vacant site on Richmond Hill.
- The four storey building and roof terrace directly overlook the rear of no.30 and other dwellings in Mount Pleasant Square.

6.2 Trevor and Sarah Jane White

They are the occupants of no.27 Mount Pleasant Square and have submitted a Third Party Appeal which has regard to planning policy and includes the following:

- The proposed development will have a significant negative impact on their quality of life and their rear garden faces the property.
- They have regard to planning policy and consider that the proposal will cause serious overlooking and loss of privacy to their property including their rear garden area. The drawings submitted are inaccurate as they show large trees along their rear boundary which is not the case.
- They also consider that the communal roof garden area will lead to noise and anti-social problems.
- The proposal is in direct contravention of infill policies outlined in S.17.9.7. They consider that the proposal has no regard for the amenities or character of the area.
- They note that the site is not vacant, not derelict and not underutilised.
- The proposal does not have regard to the character of surrounding areas and interferes with the adjacent Landmark '1910' building.
- The proposal does not comply with established building lines or street pattern (they include photographs) and is in direct contravention of planning policy.
- This is a direct contravention of policy 7.2.5.4 relative to impact on the established street pattern of development within historic areas.

- The proposed development is over scaled and has exceeded the plot ratio and site coverage recommendations of the current DCDP.
- It will lead to overshadowing and overlooking to their property and adjacent dwellings. It will impact adversely on their rear garden and home based economic activity.
- The proposal would detract from the legibility of Mount Pleasant Square. It is within proximity to Protected Structures within the Georgian Square and will be considerably higher than these structures.
- The DCDP stipulates the importance of avoiding abrupt transitions in scale and use zones.
- There are five local schools within proximity and Mount Pleasant Square pedestrian tunnel is a thoroughfare for these routes and they are concerned about pedestrian safety.
- The proposed single entry carport on Lower Mount Pleasant Avenue is located 8m from the junction and is unreasonably difficult to navigate. They consider that this will impact on public safety and will not safeguard the residential amenity of the area.
- The proposed development will not support social inclusion as it will demolish a neighbourhood shop and residential amenity in use for several decades.
- They consider that a reduction in height of the apartment block to 2/3 storeys or a family mews or a 3 storey development without a roof garden would be more beneficial.

6.3 Andrew and Jane Hall

Hendrik W van der Kamp, Town Planner, has submitted a Third Party appeal on behalf of Andrew and Jane Hall of no.28 Mount Pleasant Square. This includes the following:

- This proposal would be an overdevelopment of this confined site and it is noted that there are no other 4 storey buildings in the vicinity.
- The proposed development would be in front of the existing building line of Richmond Hill.
- The design of the proposed building will block the view of the existing historic public house.
- The site is proximate to the Z2 land use zoning for residential/conservation area and the proposal would conflict with the provisions for this area.
- An abrupt transition between the land-use zonings would occur which is contrary to policy.
- The proposal would add to existing traffic congestion and interfere with the free flow of traffic at a busy road junction.
- The vehicular entrances proposed would constitute traffic hazard and impact on public safety for pedestrians.
- The proposal will lead to a loss of residential amenity, overlooking and overshadowing. The roof garden would increase overlooking.
- They refer to planning history relative to no.28 Mount Pleasant Square and note that they have reinstated an original staircase landing window as part of planning application Reg.Ref.5386/08 and provide details of this. This window

forms an important feature of the P.S and would be directly overlooked by the proposed windows to the apartments and the roof garden.

- The proposed development does not comply with planning policy. No rationale has been given for exceeding the standards in this transitional Z1 land-use zoning area.
- In a further letter it is provided that these appellants fully support the grounds of appeal and the issues of concern relative to the adverse impact on residential amenities and the character of the area, raised in the other two Third Party appeals.
- They also agree that the development results in an inadequate standard of residential amenity for future residents in the proposed development.

7.0 RESPONSES TO GROUNDS OF APPEAL

7.1 Planning Authority response

There has been no response from Dublin City Council to the grounds of appeal.

7.2 First party response

Jong Kim of Masterplan Associates has submitted a response to the Third Party grounds of appeal on behalf of the Applicant. This has regard to each appeal and includes the following:

- The overall height, scale and massing of the building is not an overdevelopment and is completely appropriate for this site.
- The existing site is dilapidated and underutilised and this proposal represents a complete redevelopment of the site.
- The proposed overall height at 3 storey with setback penthouse level suits the site and does not have an overbearing impact on adjoining properties. It is well integrated into the streetscape and matches the height of the public house.
- The Plot Ratio and Site Coverage standards set out in the development plan are 'indicative only' and these standards have been exceeded in the existing and proximate developments in this area.
- They ask the Board to consider the high quality of design and residential amenity to be provided with, generous unit sizes, noting that all dwellings have dual aspect a private balcony and access to a communal rooftop terrace.
- They submit that the proposal complies with Section 17.9.7 having regard to the provision of sustainable infill housing.
- They consider that the proposal provides an appropriately scaled building that is out to its building line, similar to that of the existing building on site.
- The Victorian building referred to is not a protected structure and the entire block is within the Z1 land-use zoning and not in a Conservation Area or ACA. The building is considered to be acceptable in that an oblique view of the gable of the pub would still be possible.

- The proposal is in keeping with the character of the area and they do not consider that transitional zoning is an issue in this case.
- They do not consider that the building would impact adversely on the P.S in Mount Pleasant Square. They refer to the green roof proposed and note the separation distance to these properties and provide the level of overlooking to these properties is minimal.
- They consider that concerns regarding excessive windows relative to the proposed development are exaggerated and note that the proposed windows comply with standards for natural light and ventilation.
- They consider that the proposed development is well integrated into the streetscape and will not adversely affect adjoining properties or cause loss of residential amenities to those in Mount Pleasant Square.
- They note that there are some mews developments in the area.
- They consider that the balconies or communal roof terrace do not cause undue overlooking or overshadowing of adjoining properties.
- They do not consider that a smaller development would be suited to this site.
- The proposed development is sensitive to its surroundings and does not cause any adverse impact on adjoining P.S.
- They note existing parking onsite and provide that the proposed 3no. spaces are integrated into the building and replace the existing 2no. spaces.
- The DCC Traffic Department does not object to this proposal and they do not consider that traffic hazard is an issue in this case.
- They provide the proposal does not constitute a traffic hazard and include details of warning systems for pedestrians that could be implemented or alternatively provide that the single car garage facing Mount Pleasant Avenue could be omitted and replaced with residential floorspace.
- The small retail unit is in poor condition and is not viable and they consider residential development is more appropriate for this site.
- They provide that development levies shall be paid to the LA for roads, parks and community facilities and the proposed new dwellings provide much needed family homes in the area.
- The development will contribute to social inclusion and provide a new neighbourhood amenity.
- The proposed 3no. apartments exceed the standards for *Sustainable Urban Housing: Design Standards for New Apartments (2015)* and provide a good standard of residential amenity.
- They provide photomontages showing views of the existing and proposed development on site.
- The proposed development complies with planning policy and would not seriously injure the amenity of property in the vicinity and accords with both policies in the development plan and the proper planning and sustainable development of the area.

8.0 OBSERVATIONS ON GROUNDS OF APPEAL

Two separate Observations have been received from local residents and regard is had to these below:

8.1 Niamh and Brendan McGreen

They are the owners of the two storey terrace property No.24B Mountpleasant Avenue Lower, on the opposite side of the road to the proposed redevelopment and consider it will have a significant negative impact on both the neighbourhood and their property. Their concerns include the following:

- The overall scale of the proposed development is inappropriate and represents a significant over development of the site.
- There are encroachment issues relative to no.26 Mountpleasant Avenue which adjoins the site.
- Significant overlooking of adjacent properties will occur.
- The loss of the existing corner shop will have a significant negative impact on the urban and social fabric of the neighbourhood.
- The proposal will result in significant traffic hazard and congestion at this busy junction, including for pedestrians and school children.
- They are concerned about impact of construction phase of the proposed redevelopment on residential amenities and road safety.
- A mews like redevelopment would be more appropriate for this site.
- The scale, bulk and massing of the proposed development is incongruous with the streetscape and character of this tertiary road and would be contrary to policy and result in an overdevelopment of the site to the detriment of the amenities of the area.

8.2 Fiona McHugh and Paul Byrne

They live at no.26 Mount Pleasant Square and are in agreement with the appeal by Susan and Trevor White.

- They consider that the proposal will have a negative impact on their property and on the character of the area.
- They are concerned about impact on privacy and overlooking of their rear garden area.
- Traffic and pedestrian safety at this busy junction.
- Negative impact of the proposed parking entrance.
- The proposed height will result in overshadowing of their property.
- The apartment block will destroy a really beautiful historic area.
- It will impact on views of the 1910 public house building and the domed church from the rear of their property.
- They consider that this proposal will damage the local area.

9.0 **POLICY CONTEXT**

Dublin City Development Plan 2011-2017

This is the guiding document and provides details of planning policies and objectives and provides the land use zonings. Chapter 15 provides the Zoning Principles. The site is within residential Z1 zone i.e – *To protect, provide and improve residential amenities.*

Section 11.4.6 refers to the promotion of high quality successful Apartment Living which should be designed as an integral part of the neighbourhood. Policies QH15

and QH16 refer to the promotion of high standards for sustainable apartment development and QH17 supports the necessary infrastructure.

Chapter 16 refers to Design and Connectivity of the Public Realm, Urban form and Architecture. This includes Guiding Principles for all new Developments, such as sustainable site design and regard to SUDS.

Chapter 17 includes the Development Management Standards and has regard to Design, Layout, Mix of Uses and Sustainable Design.

The Development Management Standards include:

- Indicative plot ratio for Z1 zone is 0.5 - 2.0
- Indicative site coverage for the Z1 zone is 45-60%
- 10% public open space is required in respect of residential developments
- 12-15 sq.m private/communal open space per bed-space is required to serve apartment developments in suburban areas.
- 1 car-parking space per apartment in the Development Plan Parking Area 2
- 1 bicycle-parking space per dwelling.

Section 17.6 refers to Building Height in a Sustainable City and S.17.6.2 provides a definition of such heights.

Section 17.9.1 provides the Residential Quality Standards including having regard to Apartments.

Section 17.9.7 supports sustainable Infill Housing which while generally supported should also comply with standards for residential development. It includes support for the development of derelict or underused sites.

Table 17.1 provides the Car Parking Standards for Various Land-Uses and Table 17.2 the Cycle Parking Standards.

Appendix 1 provides a Schedule of Non-Statutory Plans and this includes:

Rathmines Local Action Plan

The plan states that Rathmines has a significant architectural heritage which contributes to a unique and distinctive character. Map 6.4 identifies the appeal site as a building of significant architectural merit. The plan refers to a Dublin City Council objective to encourage the sustainable and creative reuse of older buildings within Rathmines.

Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009

These seek to encourage high quality sustainable residential development, urban form and design. They are concerned to promote a sequential approach to development and to create an overall design framework with linkages to the existing developed area. They support Local Area Plans and the phasing of development, also having regard to the availability of infrastructure. Regard is had to the availability of community facilities, public transport and the quality of open space.

Chapter 3 concerns the role of design and has regard to the context and quality of the development proposal. Chapter 4 provides for planning for sustainable neighbourhoods and has regard to public open space, traffic safety, drainage issues etc. Chapter 5 refers to Cities and Larger Towns (i.e towns with 5,000 or more people) and provides the criteria for appropriate locations for higher density developments. Section 5.9 refers to Inner suburban/infill sites and has regard to residential infill. Chapter 7 concerns the home and it's setting and discusses issues such as daylight, sunlight, privacy, open space and communal facilities.

Regard is had to the accompanying DOEHLG 'Urban Design Manual-A best practice guide 2009' and to the 12 criteria to promote quality sustainable urban design discussed in this document. Regard is also had to the application of these criteria, which are divided into three sections: Neighbourhood/ Site and Home reflecting the sequence of spatial scales and order of priorities that is followed in a good design process.

Sustainable Urban Housing Design Standards for New Apartments 2007

This provides guidelines on the design and layout of new apartments to ensure that they provide satisfactory living accommodation. This also includes guidance on daylight and sunlight, communal and private open space and recreational needs. The Appendix includes recommended minimum floor areas and standards.

Updated Apartment Guidelines 2015

Note is had to Circular letter PL 1/2016 where regard is had to these updated guidelines. The purpose of these guidelines includes; to enhance the viability of new apartment construction, ensure consistency, as regards the minimum planning requirements and expand the provisions of the 2007 guidelines on qualitative aspects concerning areas such as amenities, provision of play facilities, cycle parking and related matters. The focus of this guidance is on the apartment building itself and on the individual units within it. They include a revision to some of the minimum standards.

The guidelines have been prepared taking account of related provisions of the Planning and Development (Amendment) Act 2015, which amended Section 28 of the Act as regards Ministerial Guidelines distinguishing between 'specific planning policy requirements' which must be applied by planning authorities and other aspects that planning authorities must also have regard to, in the exercise of their functions.

Design Manual for Urban Roads and Streets 2013

The DMURS document must be taken into consideration in examining planning applications. Within the DMURS document the application of the principles to existing streets must require a flexible approach. The document calls for a safer more attractive and vibrant street and the creation of a permeable network from a multi-layered process. The process should begin with a site analysis that identifies any constraints the proposal may have on the existing network, including points of access, major destinations and strategic connection (existing and proposed). The street hierarchy in terms of trips generated, access etc.

Architectural Heritage Protection Guidelines for Planning Authorities issued by the DoEHLG in 2004/2011

This has regard to development within Protected Structures and within an ACA. A Protected Structure includes the interior of the structure and all fixtures and features which form part of the interior or exterior and within the curtilage of the structure. An ACA is used to protect groups of structures of distinctiveness or visual richness or historical importance including the setting of Protected Structures where it is more extensive than its curtilage.

Chapter 6 provides policies and objectives for Development Control, which seek to ensure the protection of the architectural heritage so that these structures retain their character and special interest and continue to contribute to the social and economic mix of the area. The Conservation Principles provide that it is generally recognised that the best method of conserving a historic building is to keep it in active use. The sensitive restoration of the character of a Protected Structure is also supported.

Part 2 includes Detailed Guidance Notes relative to works to the Interior and Exterior and Access to Protected Structures. Chapter 13 refers to *Curtilage and Attendant Grounds* and Chapter 16 refers to *Making Good Disaster Damage*.

10.0 ASSESSMENT

10.1 Principle of Development and Planning Policy

The site is zoned 'Z1': *To protect, provide and improve residential amenities* in the Dublin City Development Plan 2011-2017. As shown on Land-use zoning Map H it is also in proximate to the Z2 residential/conservation area and located adjacent to Protected Structures in Mount Pleasant Square. Section 11.4.6 of the Plan refers to successful apartment living. Policy QH15 seeks: *To promote the provision of high quality apartments within sustainable neighbourhoods*. Regard also needs to be had to Section 17.9 which sets out the DCDP Standards for Residential Accommodation including apartments and to *Sustainable Urban Housing: Design Standards for New Apartments 2015* which provide updated guidance on minimum standards for apartment development.

The Third Parties consider that this proposal represents an overdevelopment of this confined site area, involves the loss of a corner shop, and that the scale, height and massing of the proposed block is excessive and would not be in character with and detract from the amenities of this more traditional and sensitive residential area. In this regard Section 5.9 of the *Sustainable Residential Development in Urban Areas 2009* is of note in that refers to infill development i.e: *In residential areas whose character is established by their density or architectural form a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill*.

There is concern that the proposal is in direct contravention of Section 17.9.7 of the DCDP which allows for sustainable infill housing. It is contended that presently the

site is not vacant, not derelict and not underutilised. This provides that in all cases where permitted infill housing should:

- *Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings.*
- *Comply with the appropriate minimum habitable room sizes.*
- *Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.*

In response the First Party provides that the proposed development represents a more sustainable use of this underutilised site and does not contravene policy for infill development and provides a development of high quality design and layout which integrates well into the streetscape and does not detract from the residential amenity or the character of the area.

In this case having regard to the residential land use zoning it is considered that the principle of such development is acceptable on this site. The issue is whether the loss of the corner shop is considered to be justifiable and that the quality of the design and layout of the proposed development is of high standard and considered to be sustainable. Regard is had to issues of intensification of the use of the site, design and layout including the modifications to the design submitted with the further information, access and parking and to other issues raised by the Parties. There is also a need to ensure that the proposed development would not have an adverse impact on the character and amenities of both the adjacent properties including the protected structures in Mount Pleasant Square and of the surrounding area and would be in the interests of the proper planning and sustainable development. These issues are discussed in more detail in the Assessment below.

10.2 Change of use issue

It is proposed to demolish the existing ground floor retail premises (99.84sq.m) and associated stores and first floor residential apartment (175.6sq.m in total) and to provide a new 4no. storey duplex apartment block to provide 3no. apartments. This will result in a total site coverage of this corner site. There is concern from local residents that this proposal results in the closure of a long established community facility i.e. the neighbourhood shop. They provide that this corner of Richmond Hill/Mount Pleasant Avenue was once in use as a small shopping area and was one of three small corner shops i.e. an electrical repair shop and Corrigan's pub. If this change of use is permitted there will be no corner shop facility which provides a service for the local community in this area which will not support policies for social inclusion relative to the needs of the elderly, disabled etc. There is concern that this will detract from the amenities of the residential area and is in contravention of planning policy relative to the provision of corner shops. In this respect Policy RD20 of the DCDP seeks: *To encourage the provision of local and/or corner shops in residential areas where there is an existing deficiency of retail provision.* It is acknowledged that consolidation of urban fabric is essential to support local amenities and existing infrastructure. This shop is adjacent to Corrigan's public house and has formed for some time part of the services/facilities of the area.

Having regard to the change of use, Policy QH17 includes that high quality energy efficient apartments be supported with all the necessary support infrastructure such as public parks and suitable shops contributing to the creation of attractive, sustainable, mixed use and mixed income apartments. It is of note that the small grocery shop is still in operation. The First Party provide that this premises is in poor condition and that it is suitable only for demolition and redevelopment. They also note that enquiries have been made and no development proposals pertaining to the site were discovered. They provide that the applicant wants to redevelop this underused commercial site to provide much needed family housing in the area. However no specific justification has been given for the loss of this retail unit which is the only such unit in the immediate vicinity. Section 4.11.6 of the *Retail Planning Guidelines 2012* provides that: *Local retail units such as corner shops or shops located in local or neighbourhood centres serving local residential districts perform an important function in urban areas.* It must be noted that as per Section 15.10.1 of the DCDP seeks to provide for sustainable residential communities where residents are within easy reach of services and facilities such as shops and that both shops (local) and residential are permissible uses within the Z1 land-use zoning.

10.3 Design and Layout

Regard has been had to the proposed demolition of the existing two storey building which contains the shop and apartment above and the plans showing the existing layout that have been submitted. Other than the issue regarding the loss of the corner shop there is no objection to the demolition of the existing two storey building. This proposal seeks to replace the existing building with a new four storey apartment building which is to consist of 3no. apartments comprising 1no. one bedroom duplex apartment with study 74.7sq.m, 1no. two bedroom duplex apartment 94.4sq.m and 1no. three bedroom duplex apartment of 118sq.m (penthouse). A Schedule of accommodation has been submitted and the proposed floor plans provide a colour scheme to show the different floor areas of each of the apartments. The plans also show that a lift is to be included. Apartment no.1 is shown as a 2 bedroom apartment on ground and first floor. Apartment no.2 is a 1 bedroom apartment on first and second floor. Apartment no.3 is a 3 bedroom apartment on second and third floors.

A Table has been provided with the documentation submitted with the application to demonstrate that the area of each of the proposed duplex apartments exceeds that required in the Development Standards of the DCDP 2011-2017 (Section 17.9.1 - A1/A2 refers). It is also of note that all apartments are dual aspect. However there is concern that the quality of the design and layout including circulation within the apartments is not in the best interests of the amenities of future occupants. This includes concern that the 1no. bedroom apartment which includes a study which could be used as bedroom. In response to the Council's F.I request revised Floor Plans have been provided that show that all of the bedrooms within the apartments comply with minimum standards. They also provide that the privacy of windows to the bedrooms is not comprised.

Balconies for each apartment unit are to the required size, it is noted that corner balconies are to be provided on the first and second floors for each apartment. As

shown on the plans the third floor apartment is to have a private roof garden area and a communal roof garden area is to be provided. There is no open space on the site at ground level except in front of the entrance lobbies. Taking the proposed roof garden into account they confirm that the private open space requirement of 12sq.m per bedspace is met.

Regard is had to the fenestration and it is provided that they have reviewed the western elevation and have reduced the number and size of windows proposed. This will reduce overlooking to the side elevation of the proximate three storey apartment block facing Richmond Hill. It is considered important that issues of overlooking are avoided where possible. It is provided that the size of all habitable rooms, comply with the Building Regulations and other appropriate guidelines for ventilation and fire escape. However it is of note that these issues are dealt with under separate remit in the Building Regulations.

It is proposed to use a high quality materials including 'Hampton blend' brick and high quality timber windows and doors for the contemporary new building to reflect red brick finishes that are predominant in the area. The penthouse level is to be finished in patinated copper to reflect the domed copper roof of the local church in Rathmines. In response to the Council's F.I request they submitted Photomontages, rendered elevations and brickwork proposals on the revised drawings.

As this is a prominent corner site it is considered important that the building frontage elevations address both Richmond Hill and Mountpleasant Avenue. The First Party provides that this proposal for a wraparound building addresses the corner site. There is concern that the proposal which will provide a strong element/vista in this location that will appear overly dominant and does not adhere to the established building line on Richmond Hill. It is of note that as shown on the drawings the proposed southern elevation shows a third floor overhang of the internal staircase area projecting forward of the building line onto Richmond Hill. This is incorporated into a design feature to include Patinated Copper Cladding to the Penthouse area. It is of note that condition no.3 of the Council's permission omitted the patinated copper cladding element that projects out at third floor level.

10.4 Impact of the Proposed Development

Regard needs to be had to the Development Management Standards taking into consideration issues such as Plot Ratio, Site Coverage and Building Height. Section 17.4 of the DCDP provides that the indicative Plot Ratio for residential areas within the Z1 land use zoning is 0.5 – 2.0. The proposed plot ratio is 2.86, the existing plot ratio is 1.18. Therefore the proposed plot ratio exceeds the indicative plot ratio. Section 17.4 provides that in certain cases the plot ratio may be exceeded, this includes cases where the site already has the benefit of a higher plot ratio, is close to public transport termini and corridors, where an appropriate mix of commercial and residential is proposed, and to maintain existing streetscape profiles.

Section 17.5 of the DCDP provides that indicative Site Coverage for the Z1 area is 45-60%. The current proposal is to provide 100% site coverage. The Third Parties

are concerned that this is excessive and that no rationale has been given for exceeding this and Plot Ratio standards. The further information submitted provides that the existing premises, already has a site coverage of 78%. They also note that a number of commercial and residential buildings in the area have site coverage of greater than 60%. The more recently developed neighbouring mews building in Bessborough Parade exceed the range at 100% site coverage. They note that the standards set out in the development plan are indicative only and consider that the proposed site coverage is acceptable in this area. They consider that the quantum of development is acceptable as it achieves a high quality of architectural design and the proposed dwellings offer a high level of residential amenity.

There is concern about the height of the proposed building. Section 17.6 of the DCDP refers to Building Height and notes: *Different character areas will require different approaches to the issue of building heights.* While concern has been expressed about the 4 storey height of the proposed apartments, they are within the low rise category as per Section 17.6.2 which allows for up to 4 stories residential i.e below 13metres in height. As shown on the elevations the Fourth Floor is set back and does not exceed 13m in height. The First Party considers that the overall massing of the building is similar to adjoining buildings. They provide that the setting back of the penthouse level and change of materials at roof level help reduce the overall scale of the building. Also that the proposed development has regard to the character of the street with regard to overall adjoining heights, parapet levels, proportions, material and surrounding buildings. They provide photomontages showing views of the proposed apartment block on site.

Comment [AB1]:

10.5 Overlooking and Overshadowing

There is concern that the proposed redevelopment will cause significant overlooking of properties in the vicinity. This includes the adjacent properties on Mount Pleasant Avenue Lower and other properties on Richmond Hill. Also of the proximate rear garden areas, including those houses opposite in Mount Pleasant Square from the proposed roof garden, balconies and windows. It is noted that a large number of windows are shown facing Lower Mount Pleasant Avenue and the Third Parties are concerned that these and the roof terrace proposed will cause overlooking to the rear of properties facing Mount Pleasant Square which back onto Mount Pleasant Avenue. Regard is had to Section 16.2.5 of the DCDP which provides: *The use of green roof area for amenity purposes will be dependent on appropriate design with regard to overlooking and impact on adjoining privacy.* In response it is provided that these properties are in excess of 32m from the Mount Pleasant Avenue frontage of the proposed building and that adverse overlooking will not occur.

Regard is had to the height and massing of the proposed development and to potential overshadowing of rear garden areas. It is noted that a shadow analysis has not been submitted. There is also concern that there will be a potential noise impact from a rooftop garden area. In response to the Council's F.I request it was provided that they have reviewed the western elevation of the proposal and have reduced the number and size of windows proposed. It is recommended that to prevent overlooking and in the interests of the amenity of the area that if the Board decide to

permit that a condition be included that the proposed third floor terrace and balcony areas shall include a 1.8 metres opaque screening to their side boundaries.

10.6 Encroachment issues

The application site is as shown on the Site Layout Plan within the red line boundary. An issue has been raised that the proposed redevelopment encroaches into the adjacent property at no.26 Mountpleasant Avenue and represents a partial redevelopment of that property. The drawing showing the proposed front elevation onto Mount Pleasant Avenue includes: *Denotes extent of Applicant's property*. Such notes are also shown on the floor plans. It appears that this includes part of the first floor of no.26. This has not been clarified within the application although it is noted that the existing plans submitted do indicate that this area is in use as the first floor accommodation extending further above the retail stores and appears to be within the ownership of the applicant. Details have not been included as to the impact of the works on the adjoining mid-terrace properties.

It is of note that the issue of ownership is a civil matter and I do not propose to adjudicate on this issue. I note here the provisions of s.34(13) of the Planning and Development Act: "*A person shall not be entitled solely by reason of a permission under this section to carry out any development*". Under Chapter 5.13 'Issues relating to title of land' of the 'Development Management - Guidelines for Planning Authorities' (DoECLG June 2007) it states, inter alia, the following: "*The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts...*"

10.7 Impact on the Character and Amenities of the Area

Regard is had to the contextual location of the site and as shown on the land-use zoning map it is noted that the site is located in the Z1 residential zoning. However as shown on Map H of the DCDP it is proximate to the Z2 Residential/Conservation zoning. It is provided in Section 15.10.2 that in such areas: *The overall quality of the area in design and layout in terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected*. It is also noted that the houses facing Mount Pleasant Square to the east are Protected Structures.

There is concern that it will be unsympathetic to and impact adversely on the character of Protected Structures on the west side of Mount Pleasant Square. This is of historic significance as one of the early 19th Century Georgian Squares of Dublin. Also that the proposed development will result in loss of residential amenity of the protected structures of Mount Pleasant Square by reason of overlooking of back gardens and a rear window that forms an important feature of no.28 Mount Pleasant Square.

The First Party advise that their concept has been developed from a study of Mount Pleasant Square and its strong link through Lower Mount Pleasant Avenue and Richmond Hill to Rathmines. Also, that the subject proposal has been developed to

respect and continue this link between the Square and Rathmines and to reflect the mix of residential properties in the vicinity. The arched pedestrian link is opposite the subject site and the First Party consider that the grain and mix of apartment size and type has been carefully designed to respect the historic back drop of Mount Pleasant Square.

There is concern that the proposed four storey apartment building by reason of its flat roof design, overall height, building lines and design as a solid block on this confined site area would be incompatible in visual terms with the surrounding urban fabric in respect to the character of the area. There are a number of landmark buildings in the area which include the 3 storey Corrigan's p/h mixed use building to the north and the copper dome of the Church in Rathmines Road Lower can be seen from the site. Both of these are included as landmark buildings in Map 6.4 of the Rathmines LAP which is referred to in the Schedule of Non Statutory Plans i.e: *Plans are used for development management and planning guidance purposes*. Regard is had to the Contextual Elevation to Mount Pleasant Avenue submitted as part of the F.I showing the proposed contemporary four storey building in the context of more traditional '1910' building the ground floor of which is currently in use as a public house. It is also considered by the Third Parties that the proposed building interferes with the legibility of the local Edwardian landmark i.e. No.27 Mount Pleasant Avenue ('The 1910 building').

It is considered that the proposal does not provide a sensitive infill development or comply with Section 7.2.5.4 of the DCDP which refers to Historic Urban Villages, streets and Public Buildings and regard is had to Policy FC47 i.e. *To seek the retention of the established street pattern in development proposals in historic areas*. However while the site is within an older more traditional part of the city suburbs it is not within a key historic main route or in an ACA or a Conservation Area. It is also noted that the Council encourages high quality innovative design that responds to the historic context of such routes.

It is noted that the proposed development breaches the building line to Richmond Hill. While it is provided that the proposed development is in keeping with the existing premises that sets the building line for this side of Richmond Hill it does encroach beyond the existing building line of other properties which are further setback e.g the three storey apartments to the west. They provide that the building is built out to the footpath and provides an active frontage to Richmond Hill. However it must be noted that a retail unit is not included and that both frontages include garages, also the proposed building is much larger and therefore will have a greater and more inactive frontages on the streetscene than that which it is to replace.

The issue of encroachment has been discussed above. It is considered that visually there will be an impact from the front elevation on the streetscape of Mount Pleasant Avenue i.e what now appears externally as part of a similar two storey mid-terrace pair of houses will be part changed so that it becomes part of the integrated apartment building. It is also noted that a drawing showing the northern elevation to show the impact on the rear of these properties has not been submitted. This change

will also decrease the visual gap between the proposed development and the older more traditional 3 storey building which includes 'Corrigan's public house. While the site frontage faces the rear gardens of Mount Pleasant Square of note also is the visual impact on the row of traditional two storey terraced houses on the opposite side of Mount Pleasant Avenue.

It is of note that the recent Bessborough Parade development to the north appears two storey and is of a lower and less dominant profile and has a setback from that of the adjoining frontage of Corrigan's public house building. The latter while not a protected structure, is a landmark historic building in this area. The proposed development is for a contemporary build which while of a similar height has a setback penthouse level on fourth floor. The issue is whether the proposed development adds to, or as another statement building will appear overly dominant and will detract from the more traditional character and adjacent landmark building in the area.

10.8 Access and Car Parking

The Third Parties consider that it would detract from the character of the area and that pedestrian safety will be impacted by increased traffic and congestion arising from the proposed development. Also, that the proposed siting and design of the building will impact on visibility at this busy junction between Mount Pleasant Avenue and Richmond Hill which are both busy thoroughfares. It is noted that there are a number of local schools within proximity and the access via Mount Pleasant Square is used as a pedestrian route. It is of note that while there is no onsite parking for customers of the retail use, there is currently a garage that is set-back and an onsite parking space in front for the existing on site property.

It is proposed to provide one garage street level space per apartment. Proposed carparking is included on the drawings and shows that this comprises one single garage with access onto Mount Pleasant Avenue and one double garage with access onto Richmond Hill. It is not proposed to provide a basement area or basement carpark. In response to the Council's F.I request revised plans were submitted showing the width of the proposed garage doors increased.

The Council's Road Planning Division provides that this proposal complies with parking standards in the DCDP which outline that 3no. car parking spaces should be provided. It is considered important in the interests of traffic safety that both vehicular accesses be located at the furthest point possible i.e. more than 10m from the junction. Adequate cycle parking facilities also need to be provided in accordance with standards. An internal ground floor lock-up bicycle store for 4no.cycles is proposed at street level. The location of this and the refuse store is shown accessed via the main hallway. The Council's Road Planning Division does not object to the F.I submitted which increases the width of the access to the garages etc. This also provides that the area of this bike store complies with standards.

It is noted that Lower Mount Pleasant Avenue is a residential street that is heavily parked and has a shortage of on-street parking. The road network in the area is

narrow and there is concern that having regard to the location of this corner site that entrances from the garages onto both roads in close proximity to this busy junction is not in the interests of traffic or pedestrian safety. The First Party response provides that if considered appropriate the applicant can install a safety beacon in the garages to warn pedestrians when the cars are exiting. Alternatively the single storey garage onto Mount Pleasant could be deleted and changed into additional floor space for the ground floor dwelling. If the Board decides to permit it is considered reasonable that the latter be conditioned as this would also serve to break up the rather bland and inactive ground floor elevation onto Mount Pleasant Avenue.

10.9 Flood Risk and Drainage

A Flood Risk Assessment & Drainage Report dated September 2015, has been submitted. This notes that the site is not in an area of reported flood risk and has regard to the OPW local area flood report which is included in Appendix 1.

This Report includes details of Drainage and notes that it is intended to use supply and to connect to mains drainage. Details of connections to foul and surface water drainage are shown on the drawings submitted and in Appendices 2 (Main Drainage Layout) and 3 (Foul discharge flow rate calculations) of this Report. The existing external drainage consists of a combined 375mm sewer coming down Lower Mount Pleasant Avenue from the Canal end. As shown on the Drainage Layout submitted a new separate surface water system is proposed to cater for the new building which is to join up before entering the combined sewer on Lower Mount Pleasant Avenue. In view of the size of the site it is proposed that SUDS measures in the form of a green roof will attenuate water from the site. This Report concludes that existing drains will need to be surveyed in order to accurately locate and inspect existing drains on the site prior to the commencement of the works.

It is noted that the Council's Engineering Department Drainage Division does not object to the proposed development and recommends a number of conditions including the incorporation of SUDS in the management of stormwater. It is recommended that if the Board decides to permit that a Drainage condition be included.

10.10 Other Issues

Construction Works: The main impact that would arise to the amenities of this area would result from the demolition/construction phase. During these phases the works would inevitably result in noise, dust, building debris and so forth. There is also potential for obstruction of traffic movements along this busy area at the junction of Richmond Hill and Mount Pleasant Avenue during deliveries etc, notwithstanding, such nuisances would be of a temporary nature and would be required to be carried out in compliance with standard codes of practice. It is also standard planning practice to include conditions that seek to minimise such impacts in the event of a grant of permission.

Development Contribution: Having examined the terms of the City Council's applicable development contribution scheme it is noted that the proposed

development sought under this application is required to pay a S48 financial contribution in the event of a grant of permission.

Appropriate Assessment. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

11.0 CONCLUSIONS AND RECOMMENDATION

Having visited the site, had regard to the documentation submitted, planning policy and the submissions made it is considered that a smaller scale suitably designed and integrated apartment development is acceptable in principle in this location. While it is appreciated that the proposed development is for a high standard contemporary build it is considered that it would appear overly large and dominant on the confined subject site. It does not integrate well with the surrounding more traditional build, in particular would conflict with the landmark 1910 building to the north, would impact adversely on the symmetry of the adjoining terraced houses, would provide bland ground floor frontages including a garage on each road frontage proximate to the junction and would not be in character with the existing residential and proximate Z2 residential/conservation area.

It is therefore recommended that this proposal be refused for the reasons and considerations below.

12.0 REASONS AND CONSIDERATIONS

The appeal site is zoned 'Z1', in the Dublin City Development Plan 2011 – 2017, the objective of which is *"to protect, provide and improve residential amenities"*. It is also located on land that has a transitional zoning character with the proximate lands zoned 'Z2' the stated objective of which is *"to protect and/or improve the amenities of residential conservation areas"* and visible from the rear of the protected structures in Mount Pleasant Square. Notwithstanding the suitability in principle of the lands for the proposed purpose but having regard to the design, height, scale and proximity of the proposed development relative to site boundaries and the established pattern of development in the area; it is considered that the proposed development would represent an inappropriately abrupt transition in scale from adjacent Z2 residential usage and would have an overbearing visual impact on the existing residences and properties in Richmond Hill and Mount Pleasant Avenue including the adjoining two storey terraced properties and proximate landmark 1910 building. The proposed development would, therefore, seriously injure the amenities and character of the area, depreciate the value of properties in the vicinity and would be contrary to Section 17.9.7 of the Dublin City Development Plan 2011-2017 and Section 5.9 relative to infill development and impact on the character of the area in the Planning Guidelines, Sustainable Residential Development in Urban Areas 2009.

Angela Brereton,
Planning Inspector,
Date: 31st of May 2016