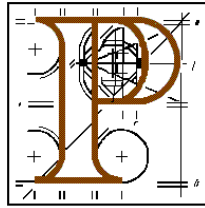


## An Bord Pleanála



## Inspector's Report

**PL 29S 246644**

**DEVELOPMENT:**

One two storey residential unit (97 square metres), including demolition of part of two storey rear extension (100 square metres) previously used as ancillary space to bank, and demolition of one storey garage (c23 square metres and associated site works.

**LOCATION**

Nos. 44 to 46 Donnybrook Road, Donnybrook, Dublin 4.

**PLANNING APPLICATION**

**Planning Authority:**

Dublin City Council

**P. A. Reg. Ref:**

2426/16

**Applicant:**

Michael Donnelly,

**Decision:**

Refuse Permission.

**APPEAL**

**First Party Appellant:**

Michael Donnelly.

**Type of Appeal**

Appeal against Decision to Refuse Permission.

**Observers**

None

**Date of Inspection:**

29<sup>th</sup> July, 2016.

**Inspector**

Jane Dennehy

## 1. SITE LOCATION AND DESCRIPTION

- 1.1 The site which has a stated area of three hundred square metre is located in Donnybrook village and is that of a two storey building with shopfront frontage onto the north east side of Donnybrook Road and frontage and vehicular access (via a sliding metal door in the boundary wall) onto Ramparts Lane at the rear to the south west. The premises were formerly used as a bank and more recently was in residential use on the upper floor and retail use on the ground floor. A partially demolished two storey house overlooks the rear yard in the site.
- 1.2 To the north east side is the former AIB bank premises which is vacant at present and subject of an undetermined appeal before the Board at present. It is a three to five storey office building also with rear access from Ramparts lane.

## 2. THE PLANNING APPLICATION.

- 2.1 The application lodged with the planning authority indicates proposals for:

Demolition of part of the rear extension, (formerly used for ancillary storage to a bank) and garage and

Construction of a two storey, two bedroom house with a total stated floor area of 97 square metres with access from Rampart lane. A designated private open space in the form of a courtyard at the rear of the building is to be accessed separately through a shared access from the existing building facing onto Donnybrook Road which also serves the proposed bin storage space. The building is to be finished in brick with a slate roof.

- 2.2 The internal reports of the Drainage Department, City Archaeologist and Roads Department indicate no objection to the proposed development subject to conditions.

## 3. PLANNING HISTORY:

- 3.1 **P. A. Reg. Ref 3178/15:** Permission was granted for change of use from bank to retail use at ground floor level and a for a new shopfront and bin store.
- 3.2 **P. A. Reg. Ref 3181/15:** Permission was for three residential units inclusive of change of use from bank t. Demolition of the garage and conversion of a flat roof to a roof terrace, and a two storey rear extension with rooflights and bin store for reasons relating to lack of private open space provision, overlooking resulting in serious injury to

residential amenity of the future occupants and contravention of section 17.9.1 of the Dublin City Development Plan.

- 3.3 **P. A. Reg. Ref 2050/16:** Permission for retention of a dwelling unit and change of use of part of the premises at ground and first floor levels and conversion of the roof to a roof terrace with demolition of three chimney stacks was granted.
- 3.4 The planning officer in her report states that the proposed development has implications for compliance with Condition Nos. 7 and 8 of the grant of permission under P. A. Reg. Ref. 2050/16.

#### 4. **DECISION OF THE PLANNING AUTHORITY.**

- 4.1 By Order dated, 28<sup>th</sup> April, 2016 the planning authority decided to refuse permission on the basis of the following reasons:

*“The proposed development would constitute overdevelopment of a restricted site, does not provide bin or bicycle parking for the two residential units or the retail unit on the site, does not meet the development plan standards in terms of private open space provision or rear garden depth and would result in overlooking of adjoining properties and would not provide a high quality residential amenity and level of privacy to future occupants of the development. The proposed development would therefore be contrary to the provisions of Dublin City Development Plan and would be seriously injurious to the residential amenities of future residents and would thereby be contrary to the proper planning and sustainable development of the area.”*

#### 5.0 **THE APPEAL.**

- 5.1 An appeal was received from Future Analytics Consulting on behalf of the applicant on 25<sup>th</sup> May, 2016. Attached are drawings indicating some design changes which the applicant would be willing to implement if conditions. (See s 7.6 below) An outline summary of the appeal grounds follows.
- 5.2 The proposed development is not overdevelopment: it does not exceed the maximum permitted 80 per cent site coverage at 77 percent or 2.0 in plot ratio for Z4 zoned land at 1.4. The location is within a district centre and underutilised.
- It consolidates the site and activates the street frontage on Rampart Lane and is consistent with s 17.9.14 providing for single dwelling unit mews development up to two storeys in height.
  - Waiving the carparking requirement provides for usable floor space and high residential amenity.

- S17.9.14 of the development plan allows for relaxation of private open space provision (115 sq metres per bed space) if there is minimum dept over the width which is provided for in the proposed terrace. Development has previously been permitted where there is a shortfall in private open space provision. There are examples of precedent for shortfalls in private open space provision. They are:

P. A. Reg. Ref. 5351/06 (three bed house at 31 Grand Canal Street; P. A. Reg. Ref.5321/06 rear curtilage of 10 Mount Street Crescent, (protected structure)

P. A. Reg. Ref. 2845/12 / PL 241055), 31A Prices Place (formerly Prices lane), Dublin 6 (protected structure) and

P.A.Reg.Ref.3293/13/ PL242782 (Daintree Building) 62 Pleasants' Street.)

- 5.3 The proposed development does not overlook adjoining properties and accords with s 17.9.14 of the development plan. The twenty two metres separation distance can be relaxed if the design preserves amenities of adjoining property. 11.5 metres is proposed and there is no overlooking opportunity between the existing and proposed dwellings. The 1.8 metres high wall at the rear of the existing first floor terrace precludes cross overlooking and overlooking into the private open space of the proposed house. Obscure glazing is proposed for first floor north elevation windows.
- 5.4 The proposed development offers a high standard of amenity to the future occupants. It has a south facing landscaped courtyard, good layout and room size and solar access. A 'nil setback' is proposed and setback behind the road boundary is not appropriate on Ramparts Lane. It is not required for mews dwellings and the proposed development. There is precedent for similar 'nil setback' boundary treatment where the proposed development rectifies boundary treatment at 19 Percy Lane. P. A. Reg. Re. 4200/15 refers)
- 5.5 The proposed development conforms with policies and standards in the draft Dublin City Development Plan, 2016-2022.
- 5.6 The applicant is willing to implement design changes shown in revised plans attached to the appeal if required. Conditions can be attached with a requirement for a compliance submission. The floor area can be reduced at ground floor level to incorporate bin storage in the shared service laneway and designated cycle storage space.

## 6. **RESPONSE TO THE APPEAL BY THE PLANNING AUTHORITY.**

- 6.1 There is no submission o file from the planning authority.

## 7 DEVELOPMENT PLAN.

- 7.1 The operative development plan is the Dublin City Development Plan, 2011-2017 according to which the site location is within the area subject to the zoning objective: Z4: *To provide for and improve mixed service facilities.*
- 7.2 The site location is within the zone of archaeological constraint for recorded monuments, (DU018-060 and DU022-082)
- 7.3 Standards for residential accommodation are set out in section 17.9.1.

## 8. EVALUATION

- 8.1 The issue central to the determination of the decision is that of attainable standard of residential amenity and the protection of residential amenities adjoining properties having regard to specific elements referred in the reason to refuse permission which are:

Cycle and bin storage arrangements.  
Private open space provision; quantity and quality.  
Overlooking and separation distance from existing development.

In addition some brief remarks are included on other aspects of the development proposal.

### 8.2 **Cycle and bin storage.**

On review of the revised site layout plan submitted with the appeal, it is considered that satisfactory arrangements are proposed whereby these facilities are to be made available in the shared access passage of Ramparts Lane for both the retail unit and residential unit. Although necessitating a reduction in size of internal accommodation these arrangements are considered to be satisfactory. (The total floor area indicated on the floor plan would appear to be over estimated.)

### 8.3 **Private open space provision; quantity and quality.**

It is agreed that some flexibility can be considered, on a case by case basis with regard to the minimum standard of 15 square metres per bedspace in development in established built up areas of an infill nature subject to satisfactory qualitative standards of amenity. The cases referred to as precedent developments in the appeal all appear to have been considered on their own merits to this end. Similarly the proposed development should be considered on its own merits in this regard.

- 8.4 There is scope for some sunlight penetration to reach the windows in the main elevation overlooking the internal courtyard which is directly accessible from the ground floor open plan living space all of which is indicative of satisfactory standards. The orientation of this elevation is such that it is not directly opposed to that of the residential units and

existing retail unit within the site. To this end, the private open space appears satisfactory.

- 8.5 Given the restrictive site configuration, limited private open space and proximity to adjoining development it is recommended, in that permission is granted, that exempt development entitlements be removed by condition.
- 8.6 **Overlooking / separation distance from the existing development.**  
There is close proximity to the existing retail and residential unit albeit with the facade angled north eastwards. For an inner urban mixed used location the separation distance may be reasonable. A screen wall along the perimeter of the terrace for the upper floor residential unit is essential to overcome potential overlooking through the courtyard and the internal accommodation through the windows. Nevertheless there may be some potential for perceptions of overlooking or impact on privacy by reason of the proximity and position of the terrace relative to the proposed development. The significance of this impact alone is not considered sufficient to warrant rejection of the proposed development.
- 8.7 It is considered that the proposed fenestration arrangement for Bedroom 2 is not satisfactory, there being one window which to have opaque glazing overlooking the internal courtyard and on the elevation at the closest point to the terrace serving the adjoining upper floor residential unit. Although the window is of an appropriate size, the lack of clear glazing serving the bedroom is unsatisfactory. Similarly, it may be questionable as to whether this window should be fitted so as to increase the amenity and privacy of the internal accommodation and the terrace at the adjoining dwelling.
- 8.8 The attainable standard of amenity to this room could be improved to a satisfactory standard by omission of the walk-in wardrobe to facilitate installation of a window in the front facade. It could be left open to the applicant to provide a walk in wardrobe at the other side and to reduce the size of the window over looking the courtyard to facilitate it. As a result the room would benefit from sunlight from the south west over the courtyard as well as light via clear glazed window on the front elevation. The modifications would ensure a satisfactory standard of residential amenity for the future occupants and those of the adjoining property.
- 8.9 It is noted that the internal roads department has not objected to the lack of parking provision incorporated in the proposal to serve the development. While not ideal, in terms of precedent and pressure for on street parking in the area, the benefit is that there is scope for a two storey dwelling built up to the frontage on Ramparts Lane which is of higher quality than a smaller unit with a space at ground level. Furthermore, dependency on use of a private car is overcome by public transport options and proximity to several places of employment, services and facilities and the city centre.

8.9 In view of the foregoing, it is recommended that the appeal be upheld, that the planning authority decision to refuse permission be rejected and that permission be granted with inclusion of a condition with requirements for modifications to the internal layout and fenestration for bedroom 2 on the upper floor .A draft order is set out overleaf.

10. **APPROPRIATE ASSESSMENT.**

Having regard to the nature and scale of the proposed development no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on European sites.

## DECISION

**Grant permission on the basis of the reasons and consideration and subject to the conditions set out below.**

### REASONS AND CONSIDERATIONS

Having regard to the location in an established mixed use inner suburban area, to the orientation of the proposed footprint relative to the internal courtyard and the adjoining development and scope for access to daylight and sunlight to the internal courtyard and the internal accommodation of the proposed dwelling, it is considered that subject to compliance with the conditions set out below, the proposed development would not be seriously injurious to the residential amenities of adjoining property or the amenities of the area and would provide for achievement of a satisfactory standard of attainable residential amenity for the future occupants and would be in accordance with the proper planning and sustainable development of the area.

### CONDITIONS

1. The development shall be in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on 25<sup>th</sup> May, 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The following modifications shall be provided for and adhered to in the development. The walk-in wardrobe for the upper floor bedroom 2 shall be omitted and provision shall be made for installation of window to match the window for Bedroom 1 in the elevation facing onto Ramparts Lane. The opaque glazed window in the elevation facing the internal court yard shall be fitted. Prior to the commencement of the development the applicant shall submit and agree in writing revised plan showing these modifications with planning authority.

**Reason:** In the interest of the residential amenities of the future occupants and the adjoining property.

3. Prior to the commencement of the development the applicant shall submit agree full details with the planning authority of all materials, textures and colours for the external facades and fenestration.



**Reason:** In the interest of visual amenity and clarity. orderly development.

4. 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:** To allow for planning review of possible future development proposals owing to the limitations of the site configuration and size.

5. Hours of operation during the demolition and construction phase shall be confined to 0800 hrs. – 1800 hrs. Mondays to Fridays (excluding Bank Holidays) and 0800 hrs. – 1400 hrs. Saturdays only.

**Reason:** In the interest of the protection of residential amenities of properties in the vicinity.

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. 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. 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 the Board to determine the proper application of the terms of the Scheme.

**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.

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**Jane Dennehy,**  
**Senior Planning Inspector.**  
**17<sup>th</sup> August, 2016.**