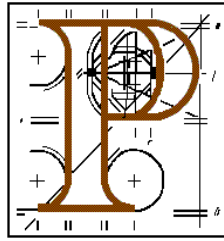


An Bord Pleanála



Inspector's Report

Development

Amendments to previously permitted development at Aclare House Nursing Home, 4/5 Tivoli Terrace South, Dún Laoghaire, County Dublin.

Planning Application

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Authority Register Reference: D16A/0398

Applicant: Breege Muldowney

Type of Application: Permission

Planning Authority Decision: Refusal

Planning Appeal

Appellant(s): Breege Muldowney

Type of Appeal: First Party

Observation(s): Graham & Fiona Mongey

Mary Duignan

Alicia Carrigy

Gabrielle Lowe

Anne & Maurice Milner

Date of Site Inspection:

21st November, 2016

Inspector:

Kevin Moore

1.0 APPLICATION DETAILS

- 1.1 There is a first party appeal by Breege Muldowney against a decision by Dún Laoghaire-Rathdown County Council to refuse permission for proposed amendments to a previously permitted development at Aclare House Nursing Home, 4/5 Tivoli Terrace South, Dún Laoghaire, County Dublin.
- 1.2 The proposed development constitutes amendments to a previously permitted development under Planning Application Ref. D09A/0891 and it would comprise:
- * demolition of 2 no. returns to the rear and the construction of a new four-storey over basement extension to the rear to include stairs core and lift and sanitary accommodation,
 - * revisions to the permitted two-storey extension to the rear to include a new basement and additional floor to provide a three-storey over basement element,
 - * renovation, refurbishment and re-arrangement of the existing 18 bedrooms to allow another floor with 9 bedrooms with the permitted building providing a total of 44 beds in 42 bedrooms in total,
 - * the forming of a new side passage for access to the garden at basement level, and
 - * elevational changes, including relocation of the existing front door and raising the permitted roof/parapet level and ancillary site works.

The overall development seeks to accommodate 44 residents.

- 1.3 Objections to the proposal were received from Anthony and Caoimhe Kelly, Scott Nolan, Toni O'Brien Johnson, Mary Duignan, Graham and Fiona Mongey, Anne Milner, Alicia Carrigy, Ken and Hazel Henderson, and Clifton Management Ltd. for reasons relating to overlooking, overshadowing, overdevelopment of the site, contravention of the development plan, stability concerns for adjoining property, fire risk, and property devaluation arising.
- 1.4 The reports received by the planning authority were as follows:
- The Environmental Health Officer had no objection to the proposal subject to conditions.

The Drainage Engineer requested further information on services drawings and surface water disposal arrangements.

The Transportation Planning Section requested further information on a proposed front boundary wall, cycle parking and associated welfare facilities, emergency vehicle and delivery access arrangements, and a construction management plan.

The Planner noted the objections received, the site's planning history, internal reports received, and development plan provisions. It was noted that planning permission D09A/0891 had been granted an extension of duration of permission until 13th October, 2020. The differences between the proposed development and that permitted under D09A/0891 were outlined. It was considered that the proposed changes to the front elevation would have significant impacts on the structure and would be a departure from the previous grant of permission, giving the building a pastiche appearance and office-like appearance. The proposed rear block changes and rear main façade extensions were considered to constitute significant changes from that previously permitted. It was considered that the proposal was comparable to the previous refusal under P.A. Ref. D13A/0120 for rear extensions in terms of proximity to the adjacent apartment block. It was acknowledged that there would be a large change in the number of bedrooms over that previously permitted (24 as opposed to 42). The increase in bedrooms and bedspaces were considered to be significant. It was further noted that the stated increase of c.275 sq.m. of floor area appeared relatively low when consideration was given to the extent of changes and new development proposed. With regard to the proposed courtyard, this was seen to be reduced in area and would be more enclosed than the previously permitted proposal. It was submitted that the overall height and proximity to the side and rear boundaries would be excessive and would have a negative impact on the surrounding visual and residential amenities. The development was seen to constitute overdevelopment of the site, resulting in negative impacts on residential and visual amenities. The design and height changes and changes to the front elevation were seen to have a negative impact on the character of the streetscape. The reduction of the proposed courtyard to accommodate increased residents was seen to be unacceptable. It was considered that the previously proposed vehicular entrance would not be acceptable and could not be carried out per the previous permitted details in relation to the

new and different existing front boundary treatment and entrance. A refusal of permission for three reasons was recommended.

- 1.5 On 25th July, 2016, Dún Laoghaire-Rathdown County Council decided to refuse permission for the development for three reasons relating to injury to residential amenity and damage to property values, unsatisfactory standard of residential amenity for future occupants, and the negative impact on the appearance and character of the structure and the streetscape.

2.0 SITE DETAILS

2.1 Site Inspection

I inspected the appeal site on 21st November, 2016.

2.2 Site Location and Description

The site of the proposed development is located on the southern side of Tivoli Terrace South in Dún Laoghaire, County Dublin. Nos. 4/5 comprise a pair of two-storey over basement Victorian houses in use as a nursing home. Car parking is provided in the forecourt area. The site is bounded by walls and planted boundaries. Development and land uses in the vicinity include an apartment building to the west (Clifton Court) and houses to the east and south. There is a public open space to the north on the opposite side of the road.

2.3 Dun Laoghaire County Development Plan 2016-2022

Zoning

The site is zoned 'A' with the objective to protect and/or improve residential amenity.

Additional Accommodation in Existing Built Up Areas

(xiii) Nursing Homes for the Elderly/Assisted Living Accommodation

When dealing with planning applications for such developments a number of criteria will be taken into account including:

- Such facilities will be resisted in remote locations at a remove from urban areas. They should be located into established neighbourhoods / residential areas well served by community infrastructure and amenities. Future residents should expect reasonable access to local services such as shops and community facilities.
- The potential impact on residential amenities of adjoining properties.
- Adequate provision of open space.
- Provision of adequate parking facilities.
- The design and proposed materials.
- The size and scale of the proposal must be appropriate to the area.
- Located within close proximity of high quality public transport links and the site should be well served by good footpath links.

Heritage

Policy AR5: Buildings of Heritage Interest

It is Council policy to:

- Retain, where appropriate, and encourage the rehabilitation and suitable reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of a streetscape in preference to their demolition and redevelopment.
- Identify buildings of vernacular significance with a view to assessing them for inclusion in the Record of Protected Structures.

Policy AR8: Nineteenth and Twentieth Century Buildings, Estates and Features

It is Council policy to:

- Encourage the appropriate development of exemplar nineteenth and twentieth century buildings and estates to ensure their character is not compromised.
- Encourage the retention of features that contribute to the character of exemplar nineteenth and twentieth century buildings and estates such as roofscapes, boundary treatments and other features considered worthy of retention.

2.4 Planning History

There is extensive planning history relating to the site. History includes:

P.A. Ref. D13A/0120

Permission was refused by the planning authority for demolition of a conservatory and the construction of extensions.

P.A. Ref. D11A/0060

Permission was granted for the replacement of a double A pitched roof with a mansard roof.

ABP Ref. PL 06D.238828

Permission was refused for the changing of a single-storey section of an extension to the rear to two stories.

P.A. D11A/0055

Permission was granted for a two-storey extension to the rear.

ABP Ref. 06D.233791

Permission was refused for demolition of conservatory and extensions and construction of two-storey and single-storey extensions.

P.A. 09A/0891

Permission was granted for replacement of double A pitched roof with a new mansard roof with windows to front and rear, and containing 2 no. single bedrooms, staffroom, treatment room, canteen and ancillary accommodation at second floor level, demolition of conservatory to rear and construction of a two-storey and single-storey extension containing 6 no. single bedrooms, 3 no. double bedrooms and ancillary accommodation, and the formation of a new single vehicular entrance.

3.0 FIRST PARTY APPEAL

- 3.1 The appellant submits that the proposal does not constitute overdevelopment and is required to modernise the nursing home in

accordance with HIQA standards. The grounds of the appeal may be summarised as follows:

Reason 1

- The proposed extension to the rear and overall design exploits the northerly orientation of the rear of the building to minimise impact of overshadowing on adjoining properties, while creating a courtyard. The proposal would have negligible impact, if any on adjoining properties.

Reason 2

- The configuration allows for a high quality, secure and private courtyard. The existing use of the building will be enhanced. Once new standards come into effect the viability of the facility will be in jeopardy if the development is not permitted.
- The standard of residential amenity of the proposed nursing home is in line with modern residential standards and with development plan provisions.

Reason 3

- The development is sensitive and appropriate and is not within an Architectural Conservation Area (ACA).
- The visual impact to the street is very similar to that permitted under D09A/0891.
- The existing building is neither a protected structure or of any architectural merit.
- The proposal will unify the two properties visually and will have no negative visual impact on adjoining buildings.
- The original streetscape has long been eroded by replacement of original houses with apartment blocks and replacement dwellings. The proposal can only contribute to re-establishing this streetscape.
- The proposal complies with Policies AR5 and AR8 of the development plan. The refurbishment and re-use of the building adds to the streetscape and sense of place. The works have no adverse impact on the character of the area.

4.0 PLANNING AUTHORITY'S RESPONSE TO APPEAL

- 4.1 The planning authority submitted that it still considers the proposal to be unacceptable in relation to the size, layout, design and appearance. It was considered the proposal would have negative impacts on the site, adjacent properties, and on the streetscape.

5.0 OBSERVATIONS

5.1 Observation by Graham and Fiona Mongey

The observation refers to the need for the development to be assessed on its own merits, bed provision on a scale unsuited to the location, over development of the site, and the injury caused to residential amenity and property values.

5.2 Observation by Mary Duignan

The observation refers to major changes being proposed relative to the previously permitted development, excess scale of development, excessive height, overlooking and impact on light arising, fire safety concerns and property devaluation. The observer concludes by referring to the applicant's approach to planning applications as 'planning by stealth' and refers to the expense incurred by her with this approach.

5.3 Observation by Alicia Carrigy

The observer concurs with the views expressed by Mary Duignan. The Board is asked to support the Council's decision.

5.4 Observation by Gabrielle Lowe

The observation refers to the unacceptable scale of development proposed, the impacts by way of overlooking and loss of light, fire safety concerns, and property devaluation.

5.5 Observation by Anne and Maurice Milner

The observation refers to the proposal needing to be assessed on its own merits, to the proposal damaging residential amenity due to excessive

height, bulk and site coverage, to the development constituting overdevelopment that would impact on the amenity of residents of the facility, to the impact on the established structures regarded as contributing to the streetscape character, and to the proposal being contrary to several policies and objectives of the development plan, including the zoning objective and Policy AR5.

6.0 ASSESSMENT

6.1 Introduction

6.1.1 I consider the principal planning issues applicable to the proposed development relate to the following:

- Impact on residential amenity in the vicinity,
- Standard of amenity for future residents, and
- Impact on the character of the structure and the streetscape.

6.2 Impact on Residential Amenity

6.2.1 The proposed development introduces very substantial additional development over that previously permitted under Planning Permission D09A/0891. The footprint of the proposed development is significantly more expansive. There is now proposed:

- a lower basement in the rearmost part of the new development, much deeper and wider bedroom and dining space in the basement, along with increased floor area in the existing building to accommodate a stairs and lift,
- much deeper accommodation to the rear at ground floor level along with an extension to the rear of the existing building,
- an additional floor with increased proportions to the section of the proposed development to the rear at first floor level, along with an extended area to the rear of the existing structure,
- a second floor level extension to the rear of the existing structure, and

- a completely new floor at third floor level.

In reality, the proposed development bears little relation in form, scale, bulk, height and character to that previously permitted under Planning Authority Ref. D09A/0891.

6.2.2 The consequence of the above referenced changes results in a significant reduction in remaining outdoor space behind the established building and the changes also have increased consequential impacts on neighbouring properties. Evidently the bulk and mass of the structures increase with the footprint and height changes exacerbate impacts. The proposed height changes are substantial over that previously permitted whereby the main building increases in height by approximately a metre over ground level and the rearmost structure increases by over a metre. The increase in depths to the developments expand the potential for affecting the amenities of neighbouring properties. Indeed, it is particularly observed that the proposed site coverage would starkly contrast with that which exists, which was previously permitted and with those established properties flanking the site. The proposed development will, as a result, increase the overshadowing of Clifton Court and will culminate in increased overlooking from the rearmost section of the new development over private open spaces to the rear of Clifton Court and No. 6 Tivoli Terrace South. In addition, the increase in height of the rearmost section abutting the rear site boundary will exacerbate the overbearing impact that would be realised by those residents in Nos. 6 and 7 Tivoli Road in particular. The proposed development would have a most intrusive impact on neighbours.

6.2.3 Having regard to the adverse impacts arising from the proposed development, it is considered that the scale of proposed development seeking to be accommodated on this site is excessive and it constitutes a most unacceptable form of overdevelopment of a restricted site that would result in impacts on established amenities that are not merited. The development could, thus, not reasonably be viewed as being in keeping with the provisions of the Development Plan that relate to nursing homes, notably with regard to impact on residential amenities of adjoining properties and the size and scale of the proposal being appropriate to the area. I thereby conclude that the inclusion of the first reason in the planning authority's decision was appropriate in this instance.

6.3 Amenity Standards for Occupants

- 6.3.1 The conclusion that the proposed development constitutes overdevelopment of this site, based on its impacts on neighbouring properties, is reinforced by the effects the proposed development would have for the occupants of the development. I note the provisions of the Dún Laoghaire-Rathdown Development Plan as they relate to nursing homes. Under the Plan the assessment of this type of development is required to consider the adequacy of the provision of open space. The permitted development sought to introduce a courtyard of some 120 square metres in area to accommodate 27 bedspaces. The current proposal seeks to reduce this courtyard area to approximately 102 square metres to accommodate 44 bedspaces. It is clear that the proposed development would result in a very substantial squeezing of the area that is sought to facilitate a courtyard. This sole private open space area to the rear of the main building would suffer from a severe sense of enclosure, resulting in overshadowing of a space that would undermine its functionality. The increase in footprint, bulk, height and overall scale of development would adversely affect this critical component of the facility to the extent that the standard of accommodation for occupiers of the facility would be unacceptably affected and amenities eroded.
- 6.3.2 Having regard to the above considerations, I conclude that the planning authority's reason for refusal due to impacts on occupiers of this facility arising from the proposed development is merited.

Note: I note the fire safety concerns expressed in observations made. The applicable provisions under the Building Control Act as they relate to such matters are beyond the scope of this planning appeal.

6.4 Impact on the Character of the Existing Structure and the Streetscape

- 6.4.1 I first note the character of the development presenting itself to the public realm as permitted by the planning authority under Application Ref. D09A/0891. The previously permitted development resulted in significant alterations to the roof of the structures by the introduction of a mansard-type roof. That was a substantial change to the character of the established structure. While this feature also allowed an increase in height

by just under 1.2 metres to facilitate development at roof level, it is particularly notable that the remainder of the presentation of the building to the public realm remained principally the same. Fenestration and doorways in particular remained. The current proposal seeks to add another floor, create a single entrance in the centre of the building, change all fenestration and increase the building height by over two metres.

- 6.4.2 Nos. 4/5 Tivoli Terrace South are a pair of early Victorian houses that are not without merit in themselves and to the streetscape. It is noted from details provided in the application that these structures date from the mid-1830s. The long established character of the buildings exhibits many attractive remaining features, including openings that remain true to the original structure in proportionality, with attractive fanlights, window-heads, sills, reveals, doorcases, steps, quoins, etc. I accept that some changes to glazing have occurred. However, the basic streetscape character remains unaltered. As a consequence, the existing structure, although sited in a location that has been subject to many changes in modern times, remains relatively true to its original character and thereby makes an important contribution to the character of the streetscape.
- 6.4.3 It is my opinion that the proposed development would result in very significant changes to the form and character of the established structure. It would present itself as a single modern block, unrecognisable from that which it is replacing to the detriment of the streetscape character. Most importantly, there would be a permanent loss of the proportionality so important to the structure's character and a loss of most, if not all of, the architectural features that allow the established structure to contribute so notably to the streetscape.
- 6.4.4 With regard to these considerations, the relevant provisions of the current Dún Laoghaire-Rathdown Development Plan are acknowledged. Buildings of this age retaining architectural features of merit are noted in the Plan for the contribution they make to the streetscape, notwithstanding any lack of designation as a protected structure or protection of the area as an Architectural Conservation Area. Policy AR5 seeks to retain, where appropriate, and encourage the rehabilitation and suitable reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of a streetscape in preference to their demolition and redevelopment. The proposed development is clearly at variance with this policy. Policy AR8 furthermore seeks to encourage the appropriate development of exemplar nineteenth

century buildings to ensure their character is not compromised and to encourage the retention of features that contribute to the character of these buildings such as roofscapes, boundary treatments and other features considered worthy of retention. One can reasonably conclude that the proposed development seeks to permanently remove most, if not all, of the features of merit in the structure from this streetscape. The proposed interventions would be considered to be intrusive, damaging and out of character with the established structure and the streetscape. Thus, the reason for refusal by the planning authority on this issue is merited.

6.5 Appropriate Assessment Screening

- 6.5.1 It is reasonable to conclude that, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any Natura 2000 site in the wider area. A Stage 2 Appropriate Assessment is, therefore, not required.

7.0 **RECOMMENDATION**

I recommend that permission is refused in accordance with the following:

Reasons and Considerations

1. It is considered that the proposed development, by reason of its siting, scale, bulk, height and proximity to adjoining established residential properties, would seriously injure the amenities of nearby residential property by virtue of overshadowing, overlooking and loss of privacy, would result in a significant overbearing impact on neighbouring residential properties to the rear, and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development would constitute overdevelopment of a restricted site, would be substandard in terms of residential amenity and private open space, and would, therefore, be

contrary to the proper planning and sustainable development of the area.

3. It is the policy of the planning authority, as set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022, to retain and encourage the rehabilitation and suitable reuse of existing older buildings which make a positive contribution to the character and appearance of a streetscape. Nos. 4 and 5 Tivoli Terrace South are distinct Victorian structures of architectural and historic merit which make a positive contribution to the historic built environment of the residential area in which they are located, add positively to the streetscape and, as a consequence, have a role in the sustainable development of the area. Having regard to the contribution the established structures make to the built heritage of the area and to the remaining integral design features of these structures, it is considered that the proposed alterations to the building, including increased building height, removal of doorways and fenestration, and provision of a mansard-type roof, would constitute a significant intrusion into the character of the structure, would conflict with the provisions of the Dun Laoghaire-Rathdown Development Plan relating to the rehabilitation of vernacular heritage and older buildings, and, therefore, would not be in accordance with the proper planning and sustainable development of the area.

Kevin Moore

Senior Planning Inspector

November, 2016.