



An
Bord
Pleanála

Inspector's Report 247395

Development	Demolition of existing storage unit/garage, and construction of a house.
Location	Adjacent to No 1 Mount Temple Road Dublin 1
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3418/16
Applicant	Alec Good
Type of Application	Permission
Planning Authority Decision	Grant Permission & Cond.
Type of Appeal	Third Party
Appellant	Susan Humphries
Observer(s)	John Joe McNeely and Maria Brosnan.
Date of Site Inspection	9/1/2017
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1. The site is located at Mount Temple Avenue, Stoney Batter. The street is made up of terraced two storey dwellings, sited at the edge of the footpath with very small rear yards. On the opposite side of the road to the site a building for Irish United Nations Veterans and a small park, mark the north eastern perimeter of Arbour Hill Prison. The dwellings in the area are of hand-made brick with brown colour predominating, doors and windows are picked out in quoins and lintels of contrasting colour and the gable corner of No. 1 Mount Temple Avenue, adjoining, is similarly detailed.
- 1.2. The site is located at a right angled bend in the road and has an angled shape to accommodate the road. It is bounded to the east by the end of terrace dwelling, No. 1 Mount Temple Road. It is bounded to the north by the rear of property on Manor Road and a laneway. The southern and western boundaries are to the road.
- 1.3. The site abuts a dwelling on Mount Temple Road; the boundary with the properties on Manor Road is a high masonry wall. The boundary with the road is a granite plinth and cast iron railings.
- 1.4. The site is currently occupied by a single storey building, of machine brick construction, which is in use as a workshop. It has a large door facing south onto the road, with two high level windows in its western elevation, facing west onto the road.
- 1.5. The pattern of openings in the front elevations in Mount Temple Avenue comprises a doorway to one side, which is adjacent to the doorway to the neighbouring property, and two vertically aligned windows, above one another, at the other end of the frontage. This is noteworthy in relation to the proposed front elevation.
- 1.6. The site is given as 142m².

2.0 Proposed Development

- 2.1. The proposed development is the demolition of existing storage unit/garage, and construction of a house. The main part of the dwelling would be attached to the dwelling at Mount Temple Road and would be of two-storeys (living / dining at ground, master bedroom above), to the rear of this part and running at right angles to it along the rear boundary would be a large single storey area, comprising 2 bedrooms, a corridor, bathroom and kitchen. A triangular open area to the front/side

(to the side of the two-storey element and to the front of the single-storey element) provides a stated 44 sq m of open space. The existing boundary railings are to remain except where the building abuts the footpath.

The two building elements would be distinct in terms of their design and materials. The two storey portion would be of brick and slate in the traditional form of the area, except for a large sliding patio door in the end elevation. The single storey portion would have a flat roof, with modern windows and walls finished in render.

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council decided to grant permission, subject to conditions, including: (no. 3) revisions for agreement (no. 4) details of external finishes to be agreed and (no. 2) a contribution under Section 48 of the Planning and Development Act 2000.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Four objections were received.

issues have been raised in relation to boundary walls. From the drawings the two storey element would be continuous with No. 1 and would form the new end of terrace and the front and rear walls and roof covering would be tied into one another. This is a civil matter between the parties and the construction would have to conform to the Building Regulations.

Development Contribution – €4,803.84

The open space provision (44 sq m) would be in excess of the majority of dwellings in the area and is acceptable having regard to the existing urban grain and open space setting.

The main part of the development would be indistinguishable from the other terraced dwellings. The principle of the single storey element is also considered acceptable.

Though no side extensions similar to that proposed exist within the area it is not considered that this element would be inappropriate or harmful when considered in the context of the surrounding residential properties, subject to minor amendments.

Regarding concerns related to residential amenity. It is acknowledged that there would be some impact on the adjoining properties due to the location of the new structure, this impact would not be considered significant.

There would be no adverse effect on sunlight reaching other dwellings that would justify refusing permission.

It is not considered that the level of overlooking would change significantly as a result of the new development. The drawings illustrate frosted glass on both rear windows.

The issue of devaluation of the property No. 1 Mount Temple Road was raised in the previous appeal. The Board's inspector considered that replacement of the garage/workshop, and its potential for noise and traffic generation, with a dwelling, would be compensatory to any loss in value that might occur.

The issue of overbearing impact was addressed in the previous appeal by a condition which required the lowering of the bathroom kitchen element from 3.2m to 2.6m.

3.2.2. Other Technical Reports

Engineering Department Drainage Division – conditions.

Roads Streets & Traffic Department Road Planning Division – it is not proposed to provide any car parking. Having regard to the location within walking distance to the city centre and the scale of the development – no objection. Conditions.

3.3. Prescribed Bodies

TII – no observations.

3.4. Third Party Observations

Aoife O'Mahony 1 Mt Temple Road

Maria Brosnan 28 Manor Place

John Joe McNeely 29 Manor Place

Susan Humphries 31 Manor Place, issues raised include: light / sunpath diagrams; privacy / overlooking; interference with boundaries; and zoning.

4.0 Planning History

PL29N.232599 (PA Reg Ref 5072/08) in an application in respect of development very similar to the subject application, the planning authority's decision to grant permission was appealed. The Board granted permission subject to conditions including certain revisions to the design.

PL29N.107179 (PA Reg Ref 0520/98) Demolition of existing building and construction of a two-storey dwelling; the planning authority's decision to grant permission was appealed. The Board refused permission for the reason of proximity of the proposed two-storey development to the rear of houses on Manor Place.

6421/06 – Demolish existing building and erect replacement dwelling – the planning authority refused permission for reasons relating to harm to the Residential Conservation Area and effects on the amenities of nearby residents.

5.0 Policy Context

5.1. **Dublin City Development Plan 2016 – 2022** is the operative plan. Relevant provisions include:

The site is zoned Z2. To protect and/or improve the amenities of residential conservation areas.

CHC4: To protect the special interest and character of all Dublin's Conservation Areas (11.1.5.4). Development within or affecting all conservation areas will contribute positively to the character and distinctiveness; and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. Development will not:

- Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the conservation area
- Involve the loss of traditional, historic or important building forms, features, and detailing including roofscapes, shopfronts, doors, windows and other decorative detail
- Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors
- Harm the setting of a conservation area
- Constitute a visually obtrusive or dominant form

Changes of use will be acceptable where, in compliance with the zoning objective, they make a positive contribution to the character, function and appearance of conservation areas and their settings. The council will consider the contribution of existing uses to the special interest of an area when assessing change of use applications and will promote compatible uses which ensure future long-term viability

Chapter 16 Development Standards

All development will be expected to incorporate exemplary standards of high-quality sustainable and inclusive urban design and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods. In the appropriate context, imaginative contemporary architecture is encouraged, provided that it respects Dublin's heritage and local distinctiveness and enriches its city environment. Through its design, use of materials and finishes, development will make a positive contribution to the townscape and urban realm, and to its environmental performance. In particular, development will respond creatively to and respect and enhance its context, and have regard to:

- The character of adjacent buildings, the spaces around and between them and the character and appearance of the local area and the need to provide appropriate enclosure to streets.

- The character, scale and pattern of historic streets, squares, lanes, mews and passageways
- Existing materials, detailing, building lines, scale, orientation, height and massing, plot width
- The form, character and ecological value of parks, gardens and open spaces, and
- Dublin's riverside and canal-side settings.

16.10.9 Corner/Side Garden Sites

The development of a dwelling(s) in the side garden of existing dwellings is a means of making the most efficient use of serviced residential lands. Such developments, when undertaken on suitable sites and to a high standard of design can constitute valuable additions to the residential building stock of an area and will generally be allowed for by the planning authority on suitable large sites. However, some side/corner gardens are restricted to the extent that they would be more suitable for extending an existing home into a larger family home rather than to create a poor quality independent dwelling, which may also compromise the quality of the original house.

The planning authority will have regard to the following criteria in assessing proposals for the development of corner/side garden sites:

- The character of the street
- Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings
- Impact on the residential amenities of adjoining sites
- Open space standards and refuse standards for both existing and proposed dwellings
- The provision of appropriate car parking facilities, and a safe means of access to and egress from the site

- The provision of landscaping and boundary treatments which are in keeping with other properties in the area
- The maintenance of the front and side building lines where appropriate

5.2. Natural Heritage Designations

None relevant

6.0 The Appeal

6.1. Grounds of Appeal

An appeal on behalf of Ms Sue Humphries, 31 Manor Street, has been submitted by Future Analytics Consulting Ltd. The grounds refer to inaccuracy of drawings which misrepresent existing conditions; unreasonable amenity impacts; and non-conformity with the objectives and policies of the development plan. The third party states that she was overseas for a considerable period when the previous application was being determined and did not have an opportunity to submit an observation.

- In relation to inaccuracy of drawings the third party states that there is no laneway to the rear of her property and that her rear private open space extends to the roadway; and illustrates this by means of block plan and photographs. The rear boundary of her property is approx. 2.6m high above natural ground level. It is proposed to increase the height of this wall to 3.225m, this has the potential to result in significant overshadowing and bulk impacts. They request a condition requiring that the height of the wall not to exceed 2.6m opposite the rear courtyard of No. 31 Manor Place.
- In relation to amenity impacts the third party refers to consideration which was given to the impact on No. 1 Mount Temple Road which was the subject of condition (1) (a) which required the reduction in height of part of the extension. The third party states that due to its southern orientation the small courtyard benefits from excellent solar access. The proposal to increase the height of the wall will severely impact the amenity of this space in terms of overshadowing and visual bulk; and they request that the wall be reduced to a max. height of 2.6m. In this regard they refer to the Board's inspector's report

in the previous appeal, which states that, in relation to the applicant's proposal to reduce the height of part of the development, '*given that it would appear to be possible to reduce the height along the bathroom and kitchen, it would be possible to show this along the whole of the element. This would not be essential, but were this to be the way in which the applicant chose to address the issue, this would be acceptable.*' They request this change. They also refer to the need to remove the party wall in order to carry out the development and their security concerns in this regard.

- In relation to non-conformity with the objectives and policies of the Dublin City Development Plan the third party refers to objective Z1, the Z2 zoning, and Section 17.5 which refers to site coverage of 45% in this zone; and they refer to the proposed provision of 44 sq m private open space in a site of 144 sq m.

6.2. Applicant Response

- The first party has not responded to the grounds of appeal.

6.3. Planning Authority Response

- The planning authority has responded to the grounds of appeal stating that conditions 3 and 6 as drafted deal with the concerns raised.

6.4. Observations

- Observations have been received from John Joe McNeely and Maria Brosnan. The issues raised are: light, privacy, the boundary wall and the height of the single storey element.

7.0 Assessment

7.1. The issues which arise in relation to this appeal are inaccuracy of drawings, residential amenity, boundaries, design and appropriate assessment and the following assessment is dealt with under these headings.

7.2. Inaccuracy of Drawings

7.3. The third party raises as an issue that the drawings provided as part of the application are inaccurate since the third party's property, which extends to the site boundary, is incorrectly depicted as being separated from the site by a laneway.

7.4. It is noted therefore that private amenity space adjoins the subject site.

7.5. **Residential Amenity**

7.6. The loss of residential amenity is raised by the third party: that due to its southern orientation the small courtyard benefits from excellent solar access, which will be severely impacted by the height proposed, and that the amenity of this space will be impacted by overshadowing and visual bulk. They request that the wall be reduced to a max height of 2.6m.

7.7. In my opinion the condition attached to the previous permission reasonably addresses amenity issues.

7.8. **Boundaries**

7.9. Issues have been raised in relation to construction work in proximity to boundaries or which involve shared boundary walls. These are matters addressed under other codes and are not matters on which the Board may adjudicate. Section 34 (13) of the Planning and Development Act refers.¹

7.10. **Design**

7.11. The Board previously considered that the use of timber boarding on the single storey element would not be acceptable; the inspector felt that this part of the building would best be finished in brick, with which the Board agreed and attached a condition, No. 1 c) that, '*the external finish of the walls to the single storey element shall match that on the walls of the main dwelling*'. It is now proposed to finish this element in render. The planning authority have accepted the finish as now proposed. In my opinion the proposed use of render will identify the single storey structure as subsidiary to the main building and is a suitable treatment for this building element.

7.12. **Appropriate Assessment**

¹ (13) A person shall not be entitled solely by reason of a permission under this section to carry out any development.

8.0 Having regard to the nature and scale of the proposed development and nature of the receiving environment 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 a European site.

9.0 Recommendation

9.1. I recommend that planning permission be granted for the following reasons and considerations, and in accordance with the following conditions.

10.0 Reasons and Considerations

10.1. Having regard to the residential conservation area zoning objective for the area, the relevant policies from the Dublin City Development Plan 2016-2022, the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities 2008 and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development

shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

- 2 Prior to commencement of the construction of the house, details of the materials, colours and textures of all the external finishes to the proposed house shall be submitted to the planning authority for agreement.

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

- 3 The proposed development shall be amended as follows:

- a) the height of at least that part of the single storey element of the dwelling that would accommodate the bathroom and kitchen shall be reduced in height to 2.6 metres;

- b) the right hand first floor window on the front elevation, when seen from the south, shall be omitted; and

revised drawings showing compliance with the above requirements shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: To protect the residential amenities of the occupants of number 1 Mount Temple Road.

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

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

- 4 Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001 shall not be carried out within the curtilage of the proposed dwellinghouse without a prior grant of planning permission.

Reason: In the interest of residential amenity.

5 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 to be applied to the permission.

Dolores McCague
Planning Inspector

13 January 2017

- 1 Photographs
- 2 Extracts from Dublin City Development Plan 2016-2022