



An
Bord
Pleanála

Inspector's Report PL29N.247710

Development	Construction of 2 no. apartments in the second floor attic space comprising the replacement of dormer windows with balconies, new rooflights and associated works.
Location	Doreen House, Blackhorse Avenue, Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3751/16
Applicant(s)	Weston Managements & Investments Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Weston Managements & Investments Ltd.
Observer(s)	(i) Michael Hannon (ii) Doreen House Management Company Ltd.
Date of Site Inspection	9 th February 2017
Inspector	Donal Donnelly

1.0 Site Location and Description

- 1.1. The appeal site is within Doreen House apartments in Blackhorse Avenue approximately 3.6km north-west of Dublin city centre. The surrounding area is predominately residential in character comprising mostly of road-fronting development along Blackhorse Avenue with suburban housing estates to the north thereof.
- 1.2. Doreen House is situated on the northern side of Blackhorse Avenue opposite the Park Crescent House apartment development. The building has a hipped roof with three storeys including attic level. There are two dormer windows on the front elevation either side of a central projecting element.
- 1.3. Internally, there are nine apartments including a single apartment at attic level. Permission was granted previously for this additional unit after completion of the building. The floor area of the existing attic is 173 sq.m. It appears that the attic has never been inhabited. The site area is 1,136 sq.m. which includes a car parking area to the front and open space to the rear.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of 2 no. apartments within the second floor attic space of an existing apartment block to include the following:
 - Replacement of existing dormer windows to the front with balconies;
 - Removal of existing roof lights and construction of new roof lights;

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council issued notification of decision to refuse permission for the proposed apartments for the following reason:

“The restricted aspect of the apartments, where habitable rooms are to be served by roof lights would provide a poor quality residential environment for future occupants and would therefore be contrary to Chapter.16.10.1

Aspect, Natural Lighting, Ventilation and Sunlight Penetration of the Dublin City Development Plan 2016-2022. The proposal would therefore be seriously injurious to the amenity of future residents and would set a precedent for similar type development in the vicinity. The proposed development is contrary to proper planning and sustainable development of the area and is contrary to the zoning objective Z1 'to protect, provide and improve residential amenities.'

3.2. Planning Authority Reports

- 3.2.1. The recommendation to refuse retention as outlined in the Planner's Report, reflects the decision of the Planning Authority.
- 3.2.2. Under the assessment of the application, it is stated that the proposed units, at 80 sq.m. each, exceed the minimum standards contained in the Development Plan and Guidelines. It is also considered that the apartments are relatively well laid out internally, with storage space and rooms appropriately scaled. However, it would be preferable if the proposed apartments had balconies with a minimum area of 7 sq.m. as required within the Development Plan.
- 3.2.3. The Case Planner also has major reservations regarding natural light and ventilation to the proposed apartments. In this regard, the vast majority of rooms are lit solely and ventilated by roof lights. Each habitable room should have an appropriately designed window and this has not been achieved. Therefore, it is considered that the proposal would provide a poor quality of residential environment for occupants.

3.3. Third Party Observations

- 3.3.1. Issues were raised in third party submission by Doreen House Management Company Ltd. relating to car parking shortage and access; disruption during construction; visual impact on existing building; structural integrity; and private open space provision.

4.0 Planning History

Dublin City Council Reg. Ref: 2199/98 (PL29N.110141)

- 4.1. Permission granted for demolition of two properties, one a dwelling, and the construction of 2-storey block of 8 no. apartments.

Dublin City Council Reg. Ref: 1196/00

- 4.2. Permission granted for a revision to the permitted scheme to include 1 no. 2-bed apartment at attic level.

Dublin City Council Reg. Ref: 4700/03 (PL29N.206762)

- 4.3. Permission granted for a revised layout and increased floor area to attic level apartment, retention of rooflights to attic apartment and retention of gateways and ancillary works.
- 4.4. A balcony proposed to the rear roof plane was omitted from the development by condition.

5.0 Policy Context

5.1. Dublin City Development Plan, 2016-2022

- 5.1.1. The appeal site is zoned "Z1" where the objective is *"to protect, provide and improve residential amenities."*
- 5.1.2. It is a policy of the Council (QH18) *"to promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with the standards for residential accommodation."*
- 5.1.3. It is stated under Section 16.10.12 that applications for planning permission to extend dwellings will only be granted where the Planning Authority is satisfied that the proposal will:
- Not have an adverse impact on the scale and character of the dwelling;

- Not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.

5.1.4. Guidelines for residential extensions are included in Appendix 17. It is recognised in Section 17.11 that the roofline of the building is one of its most dominant features and any proposal to change the shape, pitch, cladding or ornament of a roof should be carefully considered.

5.1.5. Standards for residential accommodation, including apartments, are set out in Section 16.10 and includes issues of aspect, natural lighting, ventilation and sunlight penetration.

5.2. Sustainable Urban Housing: Design Standards for New Apartment: Guidelines for Planning Authorities.

5.2.1. These Guidelines provide recommended minimum standards for floor areas for different types of apartments; storage spaces; sizes for apartment balconies / patios; and room dimensions for certain rooms.

5.2.2. It is stated that the guidelines are intended to apply to new apartment developments but can also be used as a benchmark for assessment in refurbishment schemes. In this regard, planning authorities will need to weigh up compliance with “new build” intended standards in favour of the strong desirability from a planning perspective of securing effective usage of underutilised accommodation, including upper floors.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal was lodged by the applicant against the Council’s decision. The submission includes revised plans showing an increased floor area of each apartment to 90 sq.m.; insertion of a dormer to the rear to serve bedrooms; and increases to the size of balconies and additional fenestration to the front of Doreen House.

6.1.2. The grounds of appeal and main points raised in this submission can be summarised as follows:

- There is space to provide additional parking, subject to a more efficient layout – Traffic Planning Division of the Council has no objection to the proposed additional four spaces that can be accommodated.
- Open space is provided to the rear of the apartment block and the site is in proximity to Phoenix Park.
- There are good separation distances between Doreen House and semi-detached and terraced properties to the rear (min. 39m). There are also tall evergreen coniferous trees along the rear boundary to provide screening.
- Planning history sets a strong precedent for supporting the conversion of the attic space at Doreen House.
- Proposed living/ kitchen areas, served by balconies and roof lights, will have a south-westerly aspect and will benefit from good levels of daylight and sunlight.
- Apartments will have ceiling heights of 2.7m and this will lend itself to an airy and spacious internal environment.
- Balconies will now provide 8 sq.m. of space and a depth of 2.8m.
- Each habitable room will now be served by a window.
- Dormer window to rear is least sensitive profile from a visual perspective – it will not have an overbearing impact in terms of the roofscape.
- Guidelines acknowledges “...*the strong desirability from a planning perspective of securing effective usage of underutilised accommodation, including upper floors.*”
- It is proposed to insert eye-level dormer windows to serve rear bedrooms – these windows have been sensitively designed to avoid overlooking and loss of privacy. Windows will also create dual aspect apartments.
- Under Ref: PL29N.206762, Inspector had concerns with respect to properties to the side of Doreen House – balcony/ terrace was removed by way of condition.
- Additional glazing has been introduced to the balconies to the front of Doreen House – this will further maximise light into the main living spaces.

- Impact on existing residents from renovation work can be mitigated by condition limiting construction work times.
- The introduction of additional windows, increased balcony sizes and good apartment sizes, including floor to ceiling heights, means that the Council's reason for refusal has been addressed.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority stated in responses to the appeal and observations that it has no further comment to make and considers that the Planner's Report adequately deals with the proposal.

6.3. Observations

- 6.3.1. Two observations on the appeal were received by the Board. The main points raised in these submissions are as follows:

Michael Hannon, 56 Ardpatrik Road, Navan Road, Dublin 7

- Significant additional information is totally different from the original proposal – other residents on observer's road did not make submissions to the Council and they are being deprived of making a submission to the appeal.
- Large dormer may cause issue for residents of Ardpatrik Road.
- Application map indicates open space being available to the resident but in fact a corner area is fenced off and is unavailable to use as private open space.
- There is no boundary fence provided between the existing development and the laneway that served a number of residences on Ardpatrik Road.
- Residents do not want large evergreen trees as they would shade out their gardens – they also want existing trees to be pruned to allow more light into their gardens.

Doreen House Management Company Ltd.

- Owners' Management Company (OMC) was not notified by the applicant that these works were to be carried out, nor were they consulted with regards to the design or any structural implications.
- Entire roof structure including roof timbers, roof tile coverings, lead valleys, roof drainage, etc. are the full responsibility of the OMC – proposed dormer and balconies will place additional maintenance and repair costs on the OMC in the future.
- Proposed alternations will materially affect the roof structure – the design, supervision and certification has not been discussed or approved by the OMC. OMC will have no control over proposed significant structural alternations to a critical building element.
- Works are being carried out to a roof on a building structure by a party that does not own the roof or has no responsibility for it.
- Introduction of new dormer significantly alters the external appearance of the rear elevation.
- Site Plan shows a separation distance of 39m between Doreen House and nearest dwelling on Ardpatrick Road; however, the distance is 29m to the nearest single storey extension not shown on OSi map.
- Dormer windows can fully overlook a large number of properties at the rear along Ardpatrick Road and Nephin Road – these residents have not had the benefit of the planning process to assess revised proposals.
- Dublin City Council is not responsible for the car park area to the front of the development – this is under the responsibility of the OMC and residents of Doreen House.

6.4. Further Responses

- 6.4.1. The applicant submitted the following comments in response to the observation received on the appeal:

- If the Board is minded to grant permission, it is hoped that any items for agreement can be resolved to mutual satisfaction.
- Applicant accepts that they are not entitled solely by reason of a planning permission to carry out a proposed development, and that all requisite ownership, legal and building regulations must also be complied with.
- All works to the existing roof structure will be undertaken to the highest standards by competent building contractors and fully in accordance with building regulations.
- All proposed materials will be durable, easy to maintain and of a high standard to ensure water tightness – applicant is happy to agree all materials by way of post planning compliance.
- Works will be fully indemnified, providing reassurance to the OMC that no additional financial or maintenance obligations will be placed on them.
- Dormer will not create undue visual impact as existing roof is not a sensitive receptor; the scale and siting of the dormer is in keeping with the existing architectural character of the building; the dormer will blend in terms of materials and finishes; and the proposed development is not taking place in a sensitive location.
- Applicant's architect has confirmed that the separation distance between Doreen House and the nearest properties on Ardpatrick Road is 39m.
- There are no new material impacts on third parties arising from the increase in balcony size and the dormer window to the rear. There are no material visual impacts arising from the dormer and no overlooking will take place, as the dormer will be some 30m from the nearest property.
- Applicant has commenced dialogue with the observers with respect to the car park layout.

7.0 Assessment

7.1. I consider that the key issues in determining this appeal are as follows:

- Development principle;
- Design, layout and visual impact;
- Impact on residential amenity;
- Validation and other issues.

7.2. Development Principle

7.2.1. The appeal site is zoned Z1, where the objective is *“to protect, provide and improve residential amenities.”* The provision of an additional dwelling unit would therefore be acceptable in principle subject to an assessment of the proposal under relevant Development Plan criteria.

7.3. Design, Layout and Visual Impact

7.3.1. Dublin City Council issued notification of decision to refuse permission for 2 no. apartments within the attic level of an apartment building to include the replacement of existing front dormers with balconies and the provision of roof lights. It is stated in the reason for refusal that *“the restricted aspect of the apartments, where habitable rooms are to be served by roof lights, would provide a poor quality residential environment for future occupants and would be contrary to Chapter 16.10.1 Aspect, Natural Lighting, Ventilation and Sunlight Penetration of the Dublin City Development Plan 2016-2022...”*.

7.3.2. The applicant has submitted a revised proposal with the appeal which includes the provision of a new dormer window on the rear elevation and increases to the size of the balconies to the front elevation. The amendment also includes additional fenestration to the balconies, an increase in floor area of each apartment to 90 sq.m.; and removal of side facing roof lights.

7.3.3. It is stated in Section 16.10.1 of the Development Plan that *“living rooms and bedrooms shall not be lit solely by roof lights and all habitable rooms must be naturally ventilated and lit. Glazing to all habitable rooms should not be less than 20*

per cent of the floor area of the room.” In addition, it is noted that dual aspect apartments maximise the availability of sunlight, and ceiling heights also play an important role in allowing natural daylight to penetrate into an apartment.

- 7.3.4. The amended proposal with dormer to the rear will render the apartments dual aspect. Furthermore, the rear bedroom will now be served by regular windows rather than roof lights, and ceiling heights of 2.7m will be provided. However, the area of the bedroom windows at approximately 1.3 sq.m. would be considerably less than 20% of the floor areas of these rooms.
- 7.3.5. The floor area of the apartment at 90 sq.m. is well in excess of minimum standard for a 2-bed unit. The amended balcony areas are now in excess of the minimum standard and storage areas of 6 sq.m. equate to the recommended minimum. The aggregate living/ kitchen area is marginally below the minimum and bedroom areas are well above.
- 7.3.6. There is an existing area of communal open space to the rear of the block with area of approximately 300 sq.m. The requirement for communal amenity space for 2-bed apartments is 7 sq.m. per unit and the proposal will increase the number of units within the development to 10 no. The applicant has also shown that adequate car parking for 10 no. cars can be provided to the front of the apartment block.
- 7.3.7. Overall, I would be satisfied that the proposed apartments will provide for a reasonable standard of amenity for future residents. As noted in the Planner’s Report, the units are reasonably well laid out internally and rooms are appropriately scaled. There are some minor shortfalls in terms of residential development standards; however, it is acknowledged in the Development Plan that residential development standards apply to new builds and it may not always be possible to achieve these standards within refurbishment schemes. It is also stated in the Guidelines that planning authorities will need to weigh up compliance with “new build” intended standards in favour of the strong desirability from a planning perspective of securing effective usage of underutilised accommodation, including upper floors.
- 7.3.8. With respect to the visual impact of the proposed dormer, it is acknowledged in the Development Plan that dormer extensions can cause problems for immediate neighbours and in the way a street is viewed as a whole. It is stated that the design of the dormer should reflect the character of the area, the surrounding buildings and

the age and appearance of the existing building; dormer windows should be visually subordinate to the roof slope, enabling a large proportion of the original roof to remain visible; any new window should relate to the shape, size, position and design of the existing doors and windows on the lower floors; roof materials should be covered in materials that match or complement the main building; and dormer windows should be set back from the eaves level to minimise their visual impact and reduce the potential for overlooking of adjoining properties.

- 7.3.9. I would be satisfied that the design, materials and scale of the proposed dormer is appropriate for the host building and roof slope. The structure will be set back to some degree from the eaves and windows will align with fenestration on lower levels. Finally, I would be satisfied that the proposed dormer will not appear overly dominant on the roof, and in any event, will not be visible from the public road.

7.4. Impact on Residential Amenity

- 7.4.1. Concerns have been raised within observations on the appeal that the introduction of the dormer window will increase the potential for overlooking and loss of privacy to the rear of properties along Ardpatrik Road.
- 7.4.2. The applicant has submitted a diagram with the appeal to illustrate the distance of the proposed dormer to the nearest dwellings to the north-east and also to highlight the extent of the area located within 22m of the proposed dormer. Traditionally, a 22m separation distance was sought between the rear of 2-storey dwellings.
- 7.4.3. The proposed dormer will be located at 2nd floor level and the extra elevation may increase the potential for overlooking of surrounding properties. As noted above, there will be a set back from the eaves and this will help to alleviate the potential for overlooking of properties to the side.
- 7.4.4. In my opinion, the area of adjoining properties within the 22m radius of the dormer does not represent amenity space that sensitive to overlooking. This area towards the rear of properties on Ardpatrik Road will be screened by boundaries and represents a small percentage of each affected garden.
- 7.4.5. The Board may wish to consider the attachment of a condition to any grant of permission requiring the dormer windows to be fitted with obscure glazing. It should be noted that the Board previously omitted a balcony from the rear elevation of

Doreen House (PL29N.206762). However, I consider that there is sufficient separation and intervening vegetation to an extent that overlooking will not be a significant issue from the proposed dormer.

7.5. Validation and other issues

- 7.5.1. An observation on the appeal was submitted on behalf of the owners' management company for the apartment block. This submission raises a number of legal and building control issues that I consider to be outside the remit of planning. As noted by the applicant, under Section 34(13) of the Planning and Development Act, 2000 (as amended) "*a person shall not be entitled solely by reason of a permission under this section to carry out any development.*"
- 7.5.2. The owners' management company has also expressed concern that they were not notified by the applicant of the proposed works to the roof by a party that does not own the roof. It is submitted that the entire roof is not the responsibility of the applicant and therefore the proposed balcony and dormer will place additional maintenance and repair costs on the owners' management company.
- 7.5.3. Article 22 of the Planning and Development Regulations, 2001 (as amended) sets out the content of planning applications generally. Under Subsection (2)(g) a planning application shall be accompanied by the written consent of the owner to make the application where the applicant is not the legal owner of the land or structure concerned.
- 7.5.4. There may have been grounds for invalidating the application if it is decided that all information has not been submitted with the planning application, as required under Article 22. The applicant, however, has indicated on the planning application form that they have a freehold legal interest in the site. In my opinion, the issue of ownership in this case is a legal matter between the applicant and owners' management company.
- 7.5.5. With respect to third parties being unable to comment on changes proposed at appeal stage, I have considered above that the proposed dormer structure will not significantly impact on the amenities of nearby residents.

8.0 Recommendation

- 8.1. It is considered that the proposed development should be granted for the reasons and considerations hereunder.

9.0 Reasons and Considerations

Having regard to the zoning objective, the design, layout and proposals to increase the intensity of use of underutilised upper floor space, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual amenities of the area or residential amenities of property in the vicinity, 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.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to An Bord Pleanála on the 9th December 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 interests of clarity.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

3. Site development and building works shall be carried out only between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

4. 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.

Donal Donnelly
Planning Inspector

28th February 2017