



An
Bord
Pleanála

Inspector's Report PL29N.247806

Development	Demolition of extension; construction of a 3-storey building with 2 no. apartments; construction of 2-storey building with 2 no. apartments; and change of use of ground floor unit to a commercial unit.
Location	No. 42 North Strand Road, Dublin 3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3903/16
Applicant(s)	O'Carroll Fitzgerald Project & Commercial Management Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	As above
Observer(s)	None
Date of Site Inspection	30th March 2017
Inspector	Donal Donnelly

1.0 Site Location and Description

- 1.1. The appeal site is located at No. 42 North Strand Road approximately 1.3km north-east of Dublin City Centre. North Strand Road (R105) forms part of one of the main radial routes from Dublin to the north-east. The road connects Amiens Street to Fairview over a distance of approximately 800m. There is a mix of commercial and residential properties along the road and there are perpendicular residential streets on both sides.
- 1.2. The appeal site is situated on the north-western side of North Strand Road at the corner of Newcomen Court, an entryway that leads to a number of dwellings and unused open space to the rear. No. 42 has a frontage of approximately 7m onto North Strand Road and 23m onto Newcomen Court. The stated area is 139 sq.m.
- 1.3. The site is occupied by a ground floor retail unit fronting North Strand Road. The rear of the site is overgrown and the building appears to be vacant.

2.0 Proposed Development

Planning permission is sought for the following:

- Demolition of existing first floor and rear extensions;
- Construction of a 1st and 2nd floor above the existing building to form a 3-storey building to accommodate 2 no. 1 bedroom apartments;
- Construction of a stand-alone two storey building at the rear fronting onto Newcomen Court to accommodate 2 no. 1 bedroom apartments;
- Change of use of existing ground floor unit and associated basement to a general commercial unit.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council issued notification of decision to refuse permission for the proposed development for two reasons.

- 3.1.2. Under the first reason, it is considered that the proposed development would be visually obtrusive and overbearing when viewed from neighbouring properties, particularly those to the south-west.
- 3.1.3. The second reason states that the proposed development would seriously injure the amenities of No. 41 by reason of overlooking, noise and disturbance, and poor quality of its remaining open space. Furthermore, it is considered that the private amenity space being provided would not be free from undue observation.

3.2. Planning Authority Reports

- 3.2.1. The recommendation to refuse permission in the Planner's Report reflects the decision of the Planning Authority.
- 3.2.2. Issues addressed under the assessment of the application include demolition and build, change of use, residential use and impact on adjoining properties.
- 3.2.3. It is noted that the current proposal is essentially the same height, scale and design as permitted previously on site and is deemed acceptable. There are varying ridge and parapet heights along this side of the road and it is considered that a taller structure would fit into the streetscape.
- 3.2.4. A ground floor commercial unit is considered acceptable having regard to the zoning objective and surrounding context.
- 3.2.5. The proposed apartments meet minimum floors areas as specified in Guidelines and the Development Plan. However, the quality of amenity space serving the 1st floor apartment over the commercial unit and the location of the second floor amenity space is of concern. In addition, the amenity spaces serving the two duplex units would directly overlook the adjoining property to the south-west.
- 3.2.6. It is stated that the most challenging aspect of the proposal is the construction of the standalone 2-storey building to the rear onto the narrow lane. It is noted that the proposed scale/ height is substantially greater than the rear return granted previously. Two high level windows are also proposed in the boundary wall at ground level and it is considered that these windows and the balconies would impact negatively on the potential of the adjoining property to extend to the rear.

- 3.2.7. It is concluded that the principle of development to the rear of the property is appropriate where it does not impact negatively on adjoining amenities. However, the proposed development would set an undesirable precedent for similarly over-scaled developments to the rear of properties along this section of road.

3.3. **Third Party Observations**

- 3.3.1. A resident and chair of the Newcomen Area Resident Association stated in a submission that while the development of the site is welcomed, it is noted that there is no parking. It is also stated that the wrong address has been used.

4.0 **Planning History**

Dublin City Council Reg. Ref: 2062/10

- 4.1. Permission has granted in June 2010 for the demolition of existing buildings and the construction of a three storey building over existing basement to front consisting of retail unit at ground floor (approx. 40 sq.m), accessed from North Strand Road with two office units above accessed from Clinche's Court and construction of two office units at ground and first floor levels to the rear accessed from Clinche's Court.
- 4.2. The development was revised by way of condition to show windows on the front façade responding to the prevailing solid to void ratios of the street in terms of vertical and symmetrical proportions.
- 4.3. An extension of duration permission was granted until August 2020.

Dublin City Council Reg. Ref: 5069/08

- 4.4. Permission was sought for the demolition of existing buildings and construction of a 3-storey building over existing basement to front consisting of retail unit at ground floor accessed from North Strand Road to the front and Clinche's Court to the rear, two office units above with balcony to front at first floor level, accessed from Clinche's Court, also construction of three bed town house to rear accessed from Clinche's Court.
- 4.5. Permission was granted in August 2009 on condition that the residential unit shall be omitted and the second floor area shall be identified for office use.

5.0 Policy Context

5.1. Dublin City Development Plan,

- 5.1.1. The appeal site is zoned “Z3” where the objective is *“to provide for and improve neighbourhood facilities.”*
- 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. Standards for residential accommodation, including apartments, are set out in Section 16.10 and internal space configuration, private open space, 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.

5.3. Natural Heritage Designations

- 5.3.1. The South Dublin Bay and River Tolka Estuary SPA is approximately 1km east of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal has been submitted against the Council's decision on behalf of the applicant. The grounds of appeal and main points raised in this submission can be summarised as follows:

- It must be acknowledged that the infill site is surrounded by existing developments that are reasonably dense and reflect the existing relationship to surrounding roads and historic plot dimensions.
- Design approach seeks to balance the site constraints/ characteristics and the broad aim of the Council to encourage and foster living at sustainable urban densities through the creation of attractive mixed-use sustainable neighbourhoods – balance is reasonably achieved within+ the proposal.
- Standard of accommodation and private open space achieved is appropriate in the context of the policies to promote the sustainable development of vacant or underutilised infill sites, to favourably consider higher density proposals and to recognised that it is not always possible to achieve minimum standards in tight urban infill developments (Section 16.10).
- Proposal directly supports Policy QH7 in that a sustainable urban density is achieved that integrates with the character of the surrounding area.
- Proposed scale is mindful of previous permissions on site; however, previous proposals were for office use that in some respects involves less onerous design standards.
- Extent of residential development within previously permitted building envelope would necessitate single aspect units that would result in poor levels of residential amenity.
- Balcony depth to the front at 1.2m is less than the minimum 1.5m standard owing to the need to maintain the building line along North Strand Road. However, extent of amenity space (6 sq.m.) exceeds the minimum standard of 5 sq.m.

- Amenity space serving apartment 4 accessed from stairs will be exclusive to that apartment – it is not uncommon in a tight infill site to provide outside space for an apartment, e.g. No's. 43 & 44 North Strand Road.
- Light wells are located behind what will be an extended (in height) boundary wall between properties – this is a similar arrangement to the 2-storey building immediately north of the application site.
- Applicant would be willing to accept a condition requiring the southern (open) sides of the duplex amenity spaces to be enclosed in a manner that the adjoining property cannot be overlooked but will allow light penetration into the amenity spaces.
- Proposed 2-storey building at the rear of the premises is approximately 3m longer and 0.75m higher than the rear extension approved previously and the 3-storey rear extension to the front of the building is approximately 0.65m longer.
- There are a number of substantial extensions abutting boundaries to the rear of properties fronting onto North Strand Road (39, 40, 42 & 43) and the extension granted permission on the site previously was on the boundary with No. 41.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority considers that the comprehensive planning report deals fully with all the issues raised and justifies its decision.

7.0 Assessment

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

- Development principle;
- Layout, scale and visual impact;
- Impact on residential amenity;
- Appropriate assessment.

7.2. Development Principle

- 7.2.1. The appeal site is zoned “Z3” where the objective is “*to provide for and improve neighbourhood facilities.*” Residential, neighbourhood shops and office (max. 300 sq.m.) are permissible uses within this zone and therefore the proposal for a ground floor commercial unit and 4 no. 1-bed apartments is acceptable in principle.
- 7.2.2. It should also be noted that there is a live permission on site for the demolition of existing buildings and the construction of a 3-storey building over basement to the front with 2 no. office units at ground and first floor levels to the rear. In my opinion, this establishes the principle of demolition and construction of 3 storeys to the front.

7.3. Layout, Scale and Visual Impact

- 7.3.1. It is stated under the first reason for refusal that the proposed residential development to the rear along the site boundaries would be visually intrusive and overbearing when viewed from neighbouring properties, particularly those to the south-west of the site.
- 7.3.2. The proposal would see the site developed with a site coverage of almost 100% and the indicative site coverage for “Z3” zoned lands is 60%. I acknowledge the appellant’s argument that this is an infill site surrounded by existing development that is reasonably dense. However, there is some degree of separation between existing building in the vicinity. Furthermore, the permission on site allows for a separation of approximately 3m from the rear extension to the existing dwelling at No. 23A Newcomen Court.
- 7.3.3. In terms of height, the proposed dwellings to the rear are similar to the permitted rear office extension and would follow the ridge line of the adjoining dwellings and No. 23A and 23. The proposed three storey structure at the front would also be similar in height to that permitted under Reg. Ref: 2062/10¹. A cross gable roof arrangement is now proposed in place of the permitted pitched roof and this adds somewhat to the scale of the main building to the rear.
- 7.3.4. The net increase in terms of bulk of the proposed scheme over the permitted scheme therefore relates to the rear return at second floor level and the continuation

¹ The duration of this permission was extended to August 2020.

at first floor level to the rear boundary of the site. My main concern is that there will be no outdoor space at ground level for essential services such as bin storage, bicycle storage, etc. I would also be of the view that a set back from No. 23A, as permitted previously, would have allowed for some visual relief between buildings. The proposal, as it stands, gives rise to a cramped appearance, which suggests that the site is being overdeveloped.

7.4. Impact on Residential Amenity

- 7.4.1. Under the second reason for refusal, reference is made to the close proximity of the proposed development to the rear of No. 41 North Strand Road, which together with the proposed first floor balconies and high level ground windows facing south-west, are considered to have an injurious impact on the adjoining property by reason of overlooking, noise and disturbance. It is also considered that the proposed balconies themselves will not be free from undue observation.
- 7.4.2. In response to this reason for refusal, the applicant suggests to the Board that the southern side of the amenity spaces serving these apartments could be enclosed in a manner that the adjoining property cannot be overlooked but will allow light penetration into the space.
- 7.4.3. It may be acceptable in certain circumstances to provide screening to a balcony to prevent overlooking. In this case, however, the balconies in question are located on the site boundary where the space below is the amenity space of an adjoining property. Whilst the screening would reduce overlooking, there would still be potential for noise and disturbance from 3 no. balconies located directly above the adjoining property. Furthermore, the balconies and ground floor high level windows would seriously reduce the development potential of the adjoining property.
- 7.4.4. I would also have concerns regarding the quality of the amenity spaces accessed directly from bedrooms and in one case from a stair core. It is stated in the Development Plan and in Guidelines that balconies should be located adjacent to the main living areas to extend the apartment's living space. Of the proposed 4 no. apartments, only the front first floor apartment has an amenity space accessed from the kitchen/ living/ dining area and this balcony fails to meet the minimum depth requirements of the Development Plan.

- 7.4.5. In terms of floor area and other internal space requirements, 2 no. apartments are 45 sq.m. and the others are 49.6 sq.m. and 54.2 sq.m. The area and layout of the apartments would otherwise be acceptable.
- 7.4.6. In conclusion, I would be of the opinion that the proposal represents over-development of a restricted site. I accept that it is a policy of the Development Plan (QH8) “to promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.” However, it is also a policy (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.”
- 7.4.7. The proposal fails to respect the design of its surroundings by developing at a 100% site coverage when other developments in the area have provided some form of break between dwellings. Furthermore, the proposal does not provide a satisfactory level of amenity, both internally and externally, for future residents.
- 7.4.8. I do not, however, consider that the proposed development will have a significantly increased overbearing impact on No. 41 North Strand Road to the south-west over and above the permitted development on site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be refused for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the restricted nature of the appeal site and the established pattern of development in the area, it is considered that the proposed development would, by reason of its scale, design and site coverage, constitute overdevelopment of a limited site area and produce a cramped and substandard form of residential development with inadequate open space provision. The proposed development

would, therefore, seriously injure the amenities of future resident of the scheme and of adjoining residents and would be contrary to the proper planning and sustainable development of the area.

Donal Donnelly
Planning Inspector

31st March 2017