



An
Bord
Pleanála

Inspector's Report PL29S.248249

Development	Four-storey over basement mixed-use development with ground floor retail commercial unit, cultural history exhibition space, 4 no. residential units and all associated works.
Location	34 Camden Street Lower, Dublin 2
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2004/17
Applicant(s)	Little Wing Properties Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party V Refusal
Appellant(s)	Little Wing Properties Ltd.
Observer(s)	None
Date of Site Inspection	22 nd June 2017 & 29 th June 2017
Inspector	Rónán O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is a vacant site located on the east side of Camden Street Lower. At the time of my site inspection the roadside frontage contained high solid timber boards and the site behind is overgrown, with all traces of the former period terrace building removed. The gables of the adjoining properties to the north and south are visible from the public domain and from the rear of properties on either side.
- 1.2. The rear boundary wall to the east bounds with the site of the Garda Síochána Harcourt Street site on the eastern side of the site, which has an extant permission for redevelopment.
- 1.3. The surrounding area is characterised by a wide variety of retail and commercial uses at ground floor level. There is evidence to suggest that there is residential uses at the upper floor levels of the adjoining property to the north at No. 33 Camden Street Lower. No 35 Camden Street Lower, to the south, has a pharmacy at ground floor level and the upper floors appear to be vacant.

2.0 Proposed Development

- 2.1. The drawings submitted as part of the planning application indicate a four-storey over basement mixed-use development, with setbacks from Camden Street at first, second and third floor levels. At basement and ground floor level there is a split-level commercial/retail unit to the rear with a ground floor commercial/retail unit fronting onto Camden Street. On the drawings, there is some ambiguity in relation to the commercial/retail use although the first party appeal submission states that this is either for retail or a café/restaurant use.
- 2.2. A cultural display area is proposed at basement and ground floor levels and from the appeal submission it appears this area is intended to be open to the public during business hours.
- 2.3. At first, second and 3rd floor levels, 4 residential units are proposed (3 x 1 bed, 1 X 2 bed duplex). An external communal terrace and internal communal winter room is provided at third floor level.
- 2.4. I note concept and pre-application drawings/photomontages have been submitted as part of the first party appeal submission. However, the drawings under consideration

here are those as submitted as part of the planning application and which are on the appeal file.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Refuse permission for one reason relating to overdevelopment of the site, windows and balconies on the site boundary, residential standards and residential amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer reflects the decision of the planning authority. Main points of note are as follows:

- A number of room sizes fall below the minimum requirements
- Provision of private open space below the Development Plan requirements
- Site coverage is 100% which is above the indicative site coverage for Z4
- Concluded that development is overdevelopment of site and would not afford future occupants a high standard of residential amenity.
- Recommended a refusal of permission.

3.2.2. Other Technical Reports

Drainage – No objection subject to condition.

Roads – No objection subject to condition.

3.3. Prescribed Bodies

- 3.3.1. None

3.4. Third Party Observations

- 3.4.1. One submission was received on behalf of owner of adjacent sites to the south and to the east of the appeal site. This is summarised below:

- No active frontage – retail/commercial unit is located to the rear
- Retail/commercial space lacks visibility
- Does not comply with Development Plan objectives
- Overdevelopment of site
- Proposed development would be entirely dependent on site to the rear to provide daylight and sunlight for the rear facing apartments
- Impact on development potential of site to the rear and of 35-37 Camden Street to the south.
- A generous setback from the common boundary is required.
- Current planning permission to the rear of the site which will impact on the privacy, amenity and sunlight available to the proposed development.
- Right of way runs through the site.
- Structural impacts on neighbouring building as a result of excavation of basement.
- Proposal does not meet Development Standards.

4.0 Planning History

34 Camden Street Lower- Appeal Site

- 4.1. 3154/14 – Grant - Construction of a replacement three-storey building containing a ground floor retail unit and 2 no. 1 bedroom apartments at first and second floor level.
- 4.2. PL29S.241760 (3616/12) Refuse - replacement three-storey building containing a café and gaming arcade at ground floor level with ancillary yard area to the rear and 2 no. two bed duplex apartments at first and second floor level.
- 4.3. The one reason for refusal related to overdevelopment of the site and impact on amenities on neighbouring properties and of proposed residents.

33 & 34 Camden Street Lower

- 4.4. 3723/11 Refuse - restoration and refurbishment and extension of the existing building at 34 Camden Street Lower, Internet Café, Amusement & gaming area, 2 bed apartment.
- 4.5. The three reasons for refusal related to (i) inappropriate interventions to a historic building (ii) erosion of the market-street character of the area and (iii) impact on surrounding amenities.

34, 34, 36 & 37 Camden Street Lower

- 4.6. 3736/08 – Grant - restoration and refurbishment of the existing buildings at 34, 35 and 36 Camden Street Lower and conversion to use as own door offices (149 sqm GFA, 149 sqm GFA and 145 sqm GFA respectively), including alterations to the existing 2 no. retail units (72 sqm and 105 sqm GFA) to the front of these buildings; demolition of the existing two storey building at 37 Camden Street Lower and the construction of a mixed use five storey building on the site of no. 37 and to the rear of nos. 34,35 and 36, which will provide 7 no. two-bed apartments. Office, health club and a retail unit.

Site to the rear

- 4.7. PL29S.246119 (3987/15) Grant - Phase 2 of mixed use development of retail/offices and minor amendments to Phase 1 and installation of basement car park, (Protected Structure and fronts an Architectural Conservation Area)
- 4.8. 2527/15 Grant - Office development of seven storeys, with setbacks at fifth, sixth and seventh storeys, above 2 no. basement levels.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

- 5.1.1. The site is zoned Z4 'To provide for and improve mixed services facilities'.
- 5.1.2. The appeal site is located within a conservation area and a zone of archaeological importance.

5.1.3. Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- Policy SC25 – To promote high standards of design
- Policy QH18 – To promote the provision of high-quality apartments
- Policy CHC4 – To protect the special interest and character of all Dublin’s Conservation Areas
- Appendix 24: Protected Structures and Buildings in Conservation Areas.
- Policy CEE12: To promote and facilitate tourism
- Section 16.2.1 Design Principles
- Section 16.2.2.2 Infill Development. Gap sites shall respect the plot size and surrounding area
- Section 16.7 addresses building height
- Section 16.10.1 Residential Quality Standards – Apartments – sets out standards to be achieved in new build apartments.
- Section 16.10.20 Development on Archaeological Sites and Zones of Archaeological Interest

5.2. **Natural Heritage Designations**

5.2.1. None

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. The grounds of appeal, as submitted by Brock McClure Planning Consultants, on behalf of the applicants, are as follows:

- Acknowledge the existing development and extant permission on site to the rear – when complete the development will be 11 m from the appeal site.
- No record of pre-planning in the planner’s report – however the subject proposal was the result of a process of pre-planning consultation

- None of the planning officers consulted prior to lodgement were involved in the assessment of the application.
- Regard should be had to the planning history of the site – in particular to 3436/08 - similar in scale, density and massing to the rear
- Context of the site will change once the permitted development at Harcourt Square (to the rear of the appeal site) proceeds.
- Design addresses the previous built form and historical activities that took place at this site
- Provides an appropriate mixed use development that maximises the use of this city centre location.
- Reason for refusal is not justified in the context of the quality of the design proposal.
- Planning authority did not carry out an adequate assessment of the proposal when reaching a conclusion on the application.
- Proposal complies with the Regional Planning Guidelines
- Proposal will provide 4 units – twice the amount previously approved.
- Overall floor area are in excess of the Guidelines.
- Higher plot ratio permitted in curtailed circumstances – the proposal complies with these circumstances.
- The subject proposal complies with the majority of Development Plan standards save for the shortfall in 3 of the bedrooms.
- Could arguably include the internal balconies as part of the overall bedroom space
- Communal amenity space will add to the overall quality of the proposal.
- Private amenity spaces are innovative and provide quality spaces for future residents

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

6.3.1. An observation on the first party appeal was submitted by John Spain Associates, on behalf of Hibernia REIT plc. This can be summarised as follows:

- Negative impact on the lands to the rear of the site
- Development would fail to meet an acceptable level of privacy, amenity and light for future residents of apartments 1B and 2B
- Overdevelopment of site
- Proposed development would be entirely dependent on site to the rear to provide daylight and sunlight for the rear facing apartments
- Impact on development potential of site to the rear and of 35-37 Camden Street to the south.
- A generous setback from the common boundary is required.
- Significant redesign or a refusal is required in order to address these issues
- No daylight or sunlight simulation submitted
- Structural impacts on neighbouring building as a result of excavation of basement.
- Does not comply with Development Plan objectives or standards
- No active frontage – retail/commercial unit is located to the rear
- Retail/commercial space lacks visibility

6.4. Further Responses

6.4.1. A response to the 3rd party observation was submitted by Brock McClure Planning & Development Consultants, on behalf of the applicants. This can be summarised as follows:

- Proposal does not impact on lands to the rear and the units will offer high standards of amenity
- Adequate storage at basement level
- Proposal does not compromise the development potential of adjacent sites
- Structural concerns can be dealt with by a Construction Management Plan or by way of condition.
- ABP should not be concerned with the viability of the commercial unit to the rear of the site - similar to other commercial units
- Ground floor unit will provide active frontage
- Exhibition area will ensure a vibrancy and interest throughout the scheme

7.0 **Assessment**

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

1. Principle of Development
2. Conservation and Design
3. Residential Standards/Residential Amenity
4. Neighbouring Residential Amenity
5. Appropriate Assessment
6. Other Matters

7.2. **Principle of Development**

7.2.1. As noted above, first party appeal submission states the commercial/retail uses proposed at basement and ground floor level will be either a retail or a café/restaurant use, although this is not clear from the drawings. A cultural display area is proposed at basement and ground floor level. Residential is proposed for the upper floors.

- 7.2.2. The appeal site is Zoned Z4 – mixed services. Residential, cultural uses, shops and restaurants are permissible uses under this zoning matrix. The zoning matrix does not specifically state café is a permissible use but within the Development Plan the terms café and restaurant are used in conjunction with each other. Appendix 21 of the City Development Plan classes a café and a restaurant as the same use.
- 7.2.3. As such the uses proposed here are acceptable in principle, subject to the detailed planning considerations below.

7.3. **Conservation and Design**

- 7.3.1. In terms of the height proposed, it is noted that the proposal is for a four storey over basement building, with setbacks from Camden Street at first, second and third floor levels. The adjacent buildings at 33 and 35 Camden Street are three storeys in height, although No. 33 has higher floor to ceiling heights and therefore is significantly taller than No. 35. While there is some disparity within the existing terrace of buildings, the prevailing height is three storeys on both sides of Camden Street Lower.
- 7.3.2. In relation to the detailed design, the design approach is a contemporary one which draws references from surrounding development in terms of materials, fenestration proportions at first and second floors, fascia heights and glazing at ground floor level. I have no objection to this design approach per se. However, it is my view that the four storey height proposed is incongruous with the adjoining buildings and the proposal would appear as a dominant and overbearing structure when viewed from Camden Street, from both short and long views. This is exaggerated by the fact No. 35 sits significantly lower than the proposal and therefore the south flank of the proposed building would be especially visible.
- 7.3.3. I note that the planning officer, in justifying a higher building on site, refers to the previous permission for the redevelopment of 34, 35, 36 & 37 Camden Street Lower (3736/08). This allowed for a taller building on the plot of No. 37 but No.'s 34, 35 and 36 were limited to 3 storeys in height, fronting onto Camden Street. As such I do not consider that this previous consent provides sufficient justification for a 4 storey building on this plot.
- 7.3.4. I note that there is 100% site coverage. The current proposal will result a four storey building for the majority of the length of the site and in my view this results in a

building that is excessive in bulk and massing. The proposal would present a dominant and overbearing appearance when viewed from neighbouring sites, and when viewed from the street, with a result negative impact on visual amenity.

7.3.5. The Indicative Site Coverage standards for Z4 District Centres is 80% although a higher site coverage may be permitted where the site adjoins a major public transport termini, where an appropriate mix of residential and commercial uses are proposed, to facilitate comprehensive re-development in areas in need of urban renewal and to maintain existing streetscape profiles. I do not consider that this subject site falls within the criteria as set out above.

7.3.6. In terms of the impact on the development potential of adjoining sites, I am of the opinion that the scale of the proposal would limit the potential of the adjoining site to the rear, by virtue of the windows and balcony being directly onto the site boundary and subsequently being entirely dependent on this neighbouring site for sunlight and daylight. It would also limit the potential of the site to the south by virtue of the scale of built form proposed, which could restrict a more appropriately scaled development from coming forward on this site.

7.4. Residential Standards/Residential Amenity

7.4.1. The CDP's development standards replicate those that are set out in the Sustainable Urban Housing: Design Standards for Apartments Guidelines. The four residential units meet the standards for overall floor areas. I note there is a shortfall in the required floor area for three of the bedrooms (they are 1.5m² short of the required standard) as well as a shortfall in minimum storage requirements, although there is a communal storage area provided at basement level.

7.4.2. In terms of private open space, each unit is provided with a balcony and apartment 1A is provided with a terrace area fronting onto Camden Street. In relation to communal open space, an enclosed winter room and external terrace is provided at third floor level.

7.4.3. In term of the amenity of future occupiers, it is my view that the bedroom of units 1A, 1B and 2A and the third floor bedroom of Unit 2B would not have sufficient privacy by virtue of their location facing onto the atrium/stairwell area. I do not consider the provision of the living wall screening to be sufficient to overcome this issue.

- 7.4.4. It is my view that the units are single aspect as the sole bedroom of Units 1A, 1B and 2A, and one of the bedrooms and the kitchen/dining area of Unit 2B, face onto the internal atrium/stairwell. This internal atrium will receive daylight and sunlight via a glazed roof.
- 7.4.5. I note the first party appeal submission states the internal atrium space will allow light to circulate through the development and to each individual unit.
- 7.4.6. However, I have concerns in relation to the level of natural sunlight/daylight that will be received to the bedrooms that face towards the atrium/stairwell. It is unfortunate that the application is not accompanied by a sunlight/daylight analysis that demonstrates that the bedrooms will be sufficiently lit, in accordance with the BRE guidance. In the absence of same, I am not satisfied that the bedroom of units 1A, 1B and 2A and the third floor bedroom of Unit 2B will receive sufficient daylighting.
- 7.4.7. Furthermore, I note the extant permission at Harcourt Court, which has the potential to impact on the proposal under consideration here. The permitted scheme allows for, *inter alia*, a seven storey office block with the top floor set back. This office block will be 6.5m at the closest point to the rear boundary of the appeal site.
- 7.4.8. In relation to the appeal proposal, I note there are windows on the rear boundary at first and second floor level, serving living areas, and a balcony on the boundary at third floor level, serving a bedroom. In the absence of a daylight and sunlight assessment, I cannot conclude that the residential units under consideration here will have sufficient daylight and sunlight levels, given the proximity of the consented office scheme to the appeal site boundary. In addition, the units will suffer from lack of privacy and poor outlook resulting from the proximity of the consented office block.

Cycle/Car parking

- 7.4.9. A cycle storage area is proposed at basement level although the number of spaces are not identified. A total of 5 spaces are required. It appears that there is sufficient space at basement level to accommodate this number of spaces. If the Board are minded to grant the application, details of the number and precise location of the cycle parking should be requested by way of condition.
- 7.4.10. No car parking is provided and this is acceptable given the city centre location of the site served by excellent public transport links.

7.5. Neighbouring Residential Amenity

- 7.5.1. My observations on site were that it is likely that there are residential uses on the upper floors at No. 33 Camden Street Lower. However, internal access to the upper floors of this property was not possible and therefore the use cannot be verified. The upper floors of the site to the south, at No. 35 Camden Street, appear to be vacant.
- 7.5.2. The issue of amenity impacts on possible residential uses at No. 33 Camden Street has not been raised in the appeal submissions and the Board may therefore consider it as a new issue and cite it as such. In this regard, I note there are windows on the rear elevation of No. 33 close to the boundary of the appeal site. Given the scale of the development proposed, it is my view that any occupiers of No. 33 will suffer a loss of amenity by virtue of a loss of daylight and sunlight and a loss of outlook. No daylight/sunlight assessment has been submitted which considers the impact on any neighbouring occupiers.
- 7.5.3. I note there is potential amenity impacts from a restaurant/café use, having regard to noise and fumes from any kitchen extract units, or noise generated from a late night restaurant use. However, should the Board be minded to grant permission, a condition restricting the use of the basement and ground floor units to a retail use would mitigate against any potential adverse impacts on amenity.

7.6. Appropriate Assessment

- 7.6.1. The site is neither in nor near to a Nature 2000 site. The closest SPA to the site is South Dublin Bay and River Tolka SPA which is 3.5km to the east of the site. The closest SAC is the South Dublin Bay SAC which is 3.5km to the east of the site.
- 7.6.2. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, a serviced inner-urban location, and the proximity to the nearest European Site, no Appropriate Assessment issues arise and it is not considered the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.7. Other Issues

- 7.7.1. I note the site lies within a zone of archaeological importance. Should the Board be minded to grant permission, conditions in relation to archaeology should be imposed to ensure appropriate consideration of any potential archaeology on the site.

7.7.2. I note this issue of a right of way through the site has been raised. This is a civil matter and I do not propose to comment further on this issue. I note here the provisions of S.34(13) of the Planning and Development Act and Chapter 5.13 'Issues relating to title of land' of the 'Development Management – Guidelines for Planning Authorities' (DoECLG, June 2007).

8.0 Recommendation

8.1. I recommend that planning permission should be refused for the reason set out below.

9.0 Reasons and Considerations

9.1. Having regard to the restricted nature of the site and the established pattern of development in the surrounding neighbourhood, it is considered that the proposed development by reason of its excessive height, bulk and massing, would constitute overdevelopment of a limited site area, and would be visually obtrusive on the streetscape, and when viewed from neighbouring sites, and would be out of character with development in the vicinity. Furthermore, the proposed development is likely to have an adverse impact on the amenities of property in the vicinity, in particular No. 33 and 35 Camden Street Lower, and Harcourt Square to the east, by reason of loss of daylight and sunlight and loss of outlook, and by virtue of having balconies and windows directly on the site boundary. The proposed development would, therefore, seriously injure the amenities of the area, and of property in the vicinity. Furthermore, the proposed development would also have an adverse impact on the amenity of future occupiers of the proposed residential units, by virtue of a poor standard of residential accommodation that is likely to suffer from poor daylight and sunlight levels, a lack of privacy and poor outlook. As such the proposed development is contrary to policies SC25 and CHC4 of the Dublin City Development Plan 2016-2022, and is contrary to the relevant development standards as set out in Chapter 16 of the Dublin City Development Plan 2016-2022. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Rónán O'Connor
Planning Inspector

5th July 2017