



An
Bord
Pleanála

Inspector's Report 29S.248731.

Development	Subdivision of existing 4 bed dwelling into 2 separate dwellings (one 2 bed and 1 one bed) and all external works.
Location	5 O' Curry Road, Merchants Quay, Dublin 8.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2712/17.
Applicant(s)	James and Patricia Mahony.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	James and Patricia Mahony.
Observer(s)	None.
Date of Site Inspection	05 th of September 2017.
Inspector	Karen Hamilton.

1.0 Site Location and Description

1.1. The site contains a two storey semi-detached dwelling on a corner site of O' Curry Road and Madden Road, a residential area of Dublin inner city, Dublin 8. The site has private front and rear garden and has a substantial extension to the side. The surrounding area is characterised by a range of terrace and semi-detached dwellings, which are off of a similar style.

2.0 Proposed Development

2.1. The proposed development includes the conversion of an existing semi-detached dwelling to two separate dwelling units as follows:

- One bed unit (56m²),
- Two bed unit (143m²).

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse permission for reasons based on inadequate open space, parking and impact on surrounding residential amenity. In addition, the proposed development contravenes a condition of a previous permission and would set an undesirable precedent for further development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to refuse permission and may be summarised as follows:

- Inadequate floor space to comply with the minimum standards of the DOEHLG.
- Overlooking into the open space of the adjoining property.

- The amount of open space has not been quantified although that space is unsuitable and insufficient from an amenity point of view.
- No parking has been provided and there is a requirement for one space.
- Condition No 2 of 0166/00 restricted the subdivision of the unit for multiple occupancy, therefore the proposed development is a contravention of a previous permission.

3.2.2. Other Technical Reports

Drainage Division- No objection subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

0166/00

Permission granted for a two storey side extension. Condition No 2 restricted the use of the dwelling as a single unit and Condition No 4 required the removal of the vehicular access and parking on the site.

2894/99

Permission refused for a 2 bedroom, 2 storey dwelling and associated site works within the garden. The reason for refusal related to overdevelopment on the site due to inadequate clothes drying, open space and parking, therefore contravening the Z1 zoning. In addition, the new dwelling would form a terraced dwelling which would depreciate the value of the adjacent property.

5.0 Policy Context

- 5.1. **Sustainable Urban Housing: Design Standards for New Apartments –** Guidelines for Planning Authorities (DoEHLG).
- 5.2. **Quality Housing for Sustainable Communities –** Best Practice Guidelines for Delivering Homes Sustaining Communities' (DEHLG, 2007).

- Section 5.3.2: Space requirements and room sizes.

5.3. Dublin City Development Plan 2016-2022

The site is zoned, Z1 where it is an objective "*To protect and/or improve the amenities of residential amenities*".

Section 16.10.13: Subdivision of dwellings

- The subdivision of dwelling is permitted subject to minimum floor space standards, open space, parking, refuse areas.
- The subdivision should be compatible with the architectural character of the building and the mix of accommodation in the area.

Section 16.5 and 16.6: New apartment development.

- Plot Ratio and site coverage for Z1 lands are 0.5-2.0 and 15-60% respectively.

Section 16.10: Residential Quality Standards- Apartments

- Floor space: one bed- 45m², two bed 73m². The minimum room standards are the same as the national guidelines.
- Open Space: Private space for a one bed unit 5m² and two bed unit 7m². Communal space for one bed unit is 5m² and a two bed unit is 7m².

Section 16.10.3: Residential Quality Standards for dwellings and apartments

- Separation distance of 22m to rear between first floor rear windows,
- Open space provision of 10m² per bed space.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted by the applicant and may be summarised as follows:

- Planning permission 1325/03 for a 2 storey semi- detached dwelling in the side garden of 44 O'Curry Road, D8 was granted permission for a corner site which is similar to the side extension.
- The local area does not have any off-street parking due to the historic narrow streets. Planning permission 1325/03, referred to above, had no on-site parking.
- The side extension was granted permission in 2000, no external changes are proposed, therefore the proposed development cannot be incongruous or seriously injure the pattern of order in the area, as per the reason for refusal.
- There is no overlooking onto the adjoining properties as the only window to the rear is a high-level window above the centre of the stair flight and it is not possible to look out.
- The 25m² open space to the rear and the development plan requires a minimum of 25m² for inner city houses.
- A new planning permission can negate the need to refer to a condition on an old permission (more than 17 years) which was the second reason for refusal.

6.2. Planning Authority Response

The response from the planning authority refers to the report of the area planner as justification for the decision.

6.3. Observations

None received.

7.0 Assessment

The issues of the appeal can be dealt with under the following headings:

- Principle of development
- Compliance with development plan policy
- Impact on Residential Amenity
- Appropriate Assessment

Principle of development

- 7.1. The proposed development is for the sub-division of an existing semi-detached 2 story dwelling which has been previously extended to the side and rear under planning permission 0166/00 and upon site inspection I noted the subdivision of the dwelling has already been completed. The surrounding area is residential and includes a mix of semi-detached and terraced dwellings on small plots which are a characteristic of inner city Dublin. The second reason for refusal refers a condition on 0166/00, restricting the subdivision of the dwelling. The grounds of appeal argue that this permission is dated and any new permission may supersede this condition. I have dealt with this issue below.
- 7.2. Planning history: Condition No 2 of 0166/00, a two storey side extension, which states "The house and extension to be used as a single dwelling unit only. Reason: To ensure the development will be out of character with existing residential development in the area." Section 9 of the Regulations states a proposed development may not be exempt if it contravenes a condition of a previous permission. I do not consider this section is relevant in this instance and I do consider the submission of a new planning application can override a condition on a previous permission where it is in keeping with the proper planning and sustainable development of the area. I note the reason for condition no 2 was to ensure the use was in keeping with the character of the existing residential development of the area which I have assessed below. The grounds of appeal refer to planning permission 1325/03, a two storey dwelling in a side garden at 44 O' Curry Road as a precedence for the same development. I note the difference in size and location of the 44 O Curry Road and I do not consider 1325/03 can be used as a precedence for the proposed development.

7.3. Section 16.10.13 of the development plan, allows for the sub-division of dwellings where minimum standards are achieved and the proposal is compatible with the architecture of the building. Therefore, subject to complying with other planning requirements as addressed in the following sections, I consider the principle of the proposal is acceptable.

Compliance with development plan policy

7.4. Minimum standards for apartment developments are included in the national guidelines, “Sustainable Urban Housing: Design Standards for New Apartments” (DoECLG) and the policies and objectives of the development plan in relation to room sizes, storage facilities and open space, each of these issues have been dealt separately below.

7.5. Open Space: The national guidelines include a standard for private and communal open space, where one bedroom is 10m² in total and a two bedroom is 14m² in total. The proposed development is not for a conventional apartment development and although the subdivision has already been undertaken there was no delineation of open space provision on site. This aside, I consider the open space requirement in section 16.10.3 of the development plan for a bed space, i.e. 10m² per bed space, is relevant at this location.

7.6. There has been no exact quantum of open space provided but based on the submitted drawings it is estimated that the rear garden provision for the one bed apartment is c. 18m² and the two bed rear garden is c. 7m². Therefore, the open space provision falls short of the development plan requirement and I consider the proposed development would be over development on the site based on the inappropriate provision of private amenity space.

7.7. Floor space requirements: These are set out in the national guidelines and included in Section 16.10 of the development plan and a breakdown is detailed below.

	Overall/ actual	Bedroom/actual	Living areas/ actual
One bedroom	45m ² / 55m ²	11.4m ² /9.8m ²	23m ² / 28m ²
Two bedroom	73m ² /143m ²	24.4m ² / 15m ²	30m ² /53m ²

Based on the floor space requirements listed in the Appendix of the national guidelines, I do not consider the bedroom sizes comply with the minimum standards.

- 7.8. Car parking: The proposed development includes an existing entrance. Condition no 4 of a previous permission required the removal of the vehicular access and the proposed space on site due to traffic hazard. I note the size of the parking space is 3m in width and 3m long and the minimum require length in the section 16.39.9 of the development plan is 4.75m, therefore I do not consider the parking space is a sufficient size to accommodate car parking on site. Section 16.38.9 of the development plan also requires the provision of one space per apartment development and whilst it is acknowledged that car parking spaces are generally a maximum, for residential units the provision of a space allows for car storage.
- 7.9. Therefore, based on the nature of the proposed development, location of the site and the size of the space, I do not consider the proposed development can comply with the minimum standards of the development plan.

Impact on Residential Amenity.

- 7.10. The residential area surrounding the proposed development includes both terraced and semi-detached dwellings, with associated private front and rear gardens. The reason for refusal referred to the negative impact of overlooking onto adjoining private amenity space. The grounds of appeal argue the only window facing north is used as a stairwell and there will be no overlooking, which I consider reasonable and I do not consider there will be any overlooking from the proposed development.
- 7.11. The external appearance of the building will remain the same as the existing dwelling with an access door for the one-bedroom apartment at the side. I do not consider the visual impact of the proposal is significant nor will it have a negative impact on the visual amenity of the streetscape.
- 7.12. There are approximately 18 dwellings located on corner sites similar to the subject site, in the immediate vicinity. Section 16.10.13 of the development plan refers to guidance on the sub-division of dwellings with a requirement for compatibility with the architectural character of the building and the mix of accommodation in the area. Whilst I do not consider the proposed elevational changes will have a negative impact, I consider the subdivision of the dwelling changes the density on the site not similar to the surrounding area. I consider the pattern of development in the vicinity is

exclusively for terrace and semi-detached dwellings and I consider that the subdivision of the dwelling is inconsistent with the prevailing density in the vicinity and to permit the proposed development would lead to an undesirable precedent for other similar types of developments which would erode the existing character of the area.

Appropriate Assessment

- 7.13. Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest European site, 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 the conservation objectives of any European site.

8.0 Recommendation

I recommend that planning permission should be refused for the reasons and considerations as set out below.

Reasons and Considerations

Having regard to its inner-city location and the pattern of development of the area which consists exclusively of two storey terraced and semi-detached dwellings, it is considered that the proposed layout and design of the residential units would produce a cramped and substandard form of development on this site at a density that would be inconsistent with the prevailing density in the vicinity, and by reason of inadequate room sizes, private amenity space and car parking and would result in overdevelopment of the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Karen Hamilton
Planning Inspector

05th of September 2017.