



An
Bord
Pleanála

Inspector's Report ABP-300087-17

Development	Demolition of detached house and garage and construction of two semi-detached three-storey three-bedroom dwellinghouses
Location	Harbour View House, Church Street, Howth, County Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F17A/0482
Applicant(s)	Alex Kealy
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First-Party
Appellant(s)	Alex Kealy
Observer(s)	None
Date of Site Inspection	6 th March 2018
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site overlooks the harbour area of Howth in north County Dublin. It is located on Church Street, close to the junction with Harbour Road, between the village centre and Howth rail station.
- 1.2. The site has a stated area of 357sq.m, with approximately 22m frontage onto Church Street, which is served by a footpath on the opposite side of the road to the appeal site and is elevated above Harbour Road. It contains a vacant two-storey detached house, which is sited approximately 1m from the roadside and approximately 0.5m above the adjoining road level at the northwestern end. A low brick wall forms the boundary between the site and Church Street. The house on site, known as 'Harbour View House', features two bay windows overhanging at first-floor level and a single-storey garage attached to the east side. The house backs almost immediately onto a steep embankment, the majority of which forms part of a property to the south on Dunbo Hill. The neighbouring detached houses on Dunbo Hill in Thulla estate, are situated approximately 12m above the appeal site.
- 1.3. Adjoining to the east of Harbour View House the steep embankment is separated from Church Street by a stone wall. To the immediate west and set back from the junction with Harbour Road is 'Waveney', a three-storey apartment block with off-street parking to the front. On the opposite side of Church Street is a Protected Structure, 'The Old Courthouse', a detached four-bay single-storey former church dating from the mid-nineteenth century and stated to have been in use as a courthouse until 1970.
- 1.4. The surrounding Howth area is characterised by buildings from various eras, generally fronting northwards onto the harbour and the green spaces flanking this.

2.0 Proposed Development

- 2.1.1. The proposed development comprises the following:

- Demolition and removal of a two-storey dwellinghouse and an attached single-storey garage with a stated gross floor area (GFA) of 223sq.m, and removal of front boundary wall;
- Construction of a pair of three-storey semi-detached three-bedroom dwellinghouses with a stated GFA of 457sq.m;
- Provision of two vehicular entrances off Church Street serving two parking spaces, as well as hard landscaping works throughout, refuse storage areas and all associated site works, including formation of a retaining wall structure coupling as a rear wall to the proposed building.

2.1.2. The planning application was accompanied by a set of photomontages and a letter of consent to make the application from the owner of No.1 Thulla, Dunbo Hill.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to refuse permission for the following four reasons:

- Reason No 1: loss of a building that positively contributes to the character of the Howth Architectural Conservation Area (ACA);
- Reason No 2: contrary to provisions of the Development Plan which allow for demolition of a building in an ACA only in exceptional circumstances;
- Reason No 3: contrary to Objective DMS157 of the Development Plan, which requires development to positively enhance the ACA;
- Reason No 4: absence of information regarding the stability of the embankment.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (September 2017) reflects the decision of the Planning Authority. The Planning Officer notes the following:

- Planning permission for demolition of Harbour View House and construction of two apartments on site was permitted in 2008 under Fingal County Council

(FCC) Ref. F08A/0249, but at that time the site was not within an ACA. The life of this permission was extended until November 2018.

- The existing building on site contributes positively to the character of the ACA and is of historical value;
- An Architectural Impact Statement did not accompany the planning application and exceptional circumstances for the loss of the building on site have not been provided;
- The Planning Authority's preference is for the existing building to be retained and reused;
- Contemporary design approach is acceptable, but the building height (c.10.5 to 10.9m) is excessive;
- Photomontages of the development in the context of the Protected Structure have not been provided;
- Residential development standards relating to room sizes, private amenity space etc. are complied with;
- Perpendicular parking arrangement is not acceptable and should be revised to provide parallel parking;
- Stability of the embankment was a cause for concern historically, resulting in a court order requiring works to address this under FCC Ref. F99A/001 in 1999. The Planning Authority have significant concerns in relation to the excavation of the embankment, including the potential for debris to fall onto the roadside.

3.2.2. Other Technical Reports

- Conservation Officer – further information requested;
- Transportation Planning Section – further information requested;
- Water Services Section – no objection, subject to conditions;
- Biodiversity Officer – no response;
- Parks & Green Infrastructure – no response;
- County Architect - further information requested;

- Environment & Water Services Department – No objection, subject to conditions.

3.3. Prescribed Bodies

- Irish Water – no objection.

3.4. Third-Party Submission

3.4.1. A submission accompanied by a set of photographs, including an historical view of the front of the building on the appeal site, was received from a local group, Hillwatch, raising the following concerns:

- Proposed development constitutes overdevelopment of the site;
- House on site is of historical and heritage value, positioned at the historic entrance to the town and within an ACA;
- Additional context is required to comprehend the visual impact of the proposals;
- Proposals are contrary to the proper planning and development of the area.

4.0 Planning History

4.1. Appeal Site

4.1.1. Recent applications on the appeal site, including the following:

- FCC Ref. F08A/0249 – Permission granted (December 2008) for demolition of the buildings on site and construction of a four-storey building containing three apartments and undercroft parking;
Condition No.2 – omit the third-floor level (penthouse apartment);
Condition No.6 – monitoring of structural works to embankment;
Condition No.20 – Section 48 general contribution levy applies;
Condition No.21 – Section 48c contribution levy in lieu of open space shortfall.
- FCC Ref. F08A/0249/E1 – Grant (May 2013) of extension of duration of planning permission FCC Ref. F08A/0249 for demolition of the buildings on

site and construction of a three-storey building containing two apartments. Permission expires in November 2018.

4.2. Surrounding Sites

4.2.1. There have been numerous permissions for development in the immediate area, including the following:

Embankment adjoining to the south and east of appeal site

- FCC Ref. F99A/0001 – permission granted (July 1999) for remedial works to stabilise slope as required by Court Order 10586/1996 involving excavation of part of slope, soil nailing, shot creting, providing crib wall to upper section of slope and providing temporary access along Dunbo Hill;

Properties to the south (Thulla, Dunbo Hill)

- FCC Ref. F08A/0628 – retention permission granted (August 2008) for modifications to house nos. 3 and 4 of a previously approved development under Reg. Ref: F05A/1721 (PL 06F.217831);
- FCC Ref. F08A/0621 – retention permission granted (August 2008) for modifications to house no. 2 of a previously approved development under Reg. Ref: F05A/1721 (PL 06F.217831);
- ABP Ref. PL06F.217831 (FCC Ref. F05A/1721) permission granted (December 2006) for 5 houses and works to an existing house. A condition was attached to require monitoring the stability of the embankment during construction.

5.0 Policy Context

5.1. Development Plan

5.1.1. The appeal site and surrounding area has a zoning objective 'TC – Town & District Centre' within the Fingal Development Plan 2017-2023, with a stated objective to 'protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities'. Residential uses are permitted in principle on 'TC'-zoned land. The Plan states that the vision for 'TC' zoned land is 'to maintain and build on the accessibility, vitality and viability of the existing Urban

Centres in the County'. Objective 'Howth 1' of the Development Plan aims to 'ensure that development respects the special historic and architectural character of the area'.

5.1.2. The site is within the Howth ACA that encompasses the historic core of Howth village. Objective DMS157 of the Plan requires any new development within or adjoining an ACA to positively enhance the character of the ACA and 'is appropriate in terms of the proposed design, including: scale, mass, height, proportions, density, layout, materials, plot ratio, and building lines'. Other relevant objectives of the Plan including the following:

- 'Objective CH32 - Avoid the removal of structures and distinctive elements (such as boundary treatments, street furniture, paving and landscaping) that positively contribute to the character of an Architectural Conservation Area;
- Objective CH33 - Promote the sympathetic maintenance, adaptation and re-use of the historic building stock and encourage the retention of the original fabric such as windows, doors, wall renders, roof coverings, shopfronts, pub fronts and other significant features of historic buildings, whether protected or not;
- Objective DMS158 - All planning applications for works in an Architectural Conservation Area shall have regard to the information outlined in Table 12.11'. Table 12.11 states that 'existing buildings and structures should be retained and reused rather than replaced. Applications for demolition of buildings that contribute to the character of an ACA will only be granted in exceptional circumstances. The onus will be upon the applicant to justify the demolition of the building. The Council will start from the premise that the structure should be retained'.

5.1.3. The Old Courthouse approximately 6m to the northeast of the site on the opposite side of Church Street is included within the Record of Protected Structures (Ref. 567). Objective CH20 of the Plan seeks to 'ensure that any development, modification, alteration, or extension affecting a Protected Structure and/or its setting is sensitively sited and designed, is compatible with the special character, and is appropriate in terms of the proposed scale, mass, height, density, layout, materials,

impact on architectural or historic features, and junction with the existing Protected Structure’.

- 5.1.4. Design criteria for urban development and residential development are set out in sections 12.3 and 12.4 of the Plan respectively. Table 12.8 of the Plan requires two car parking spaces within the site curtilage to serve a three-bedroom house in this area.

5.2. National Guidelines

- 5.2.1. Guidance provided within the ‘Architectural Heritage Protection – Guidelines for Planning Authorities’ is relevant. Where demolition of a building is proposed in an ACA, the applicant and the Planning Authority should consider the material effect that that proposed demolition may have on the character of the ACA, including any diminution of the existing contribution, balance, setting in the context of adjacent Protected Structures, potential to reduce the impact, consideration of alternatives to demolition and the overall merits of the proposals.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first-party appeal against the decision of the Planning Authority was received by the Board and this raised the following:

Principle of the Development

- Site has the benefit of an existing permission that is valid until November 2018, therefore, a commencement notice could be issued and the existing building demolished immediately;
- For various reasons, it would be more preferable to develop the site based on the revised subject proposals than the previous permission;
- A Conservation Report from an historic building consultant is included with the grounds of appeal and this sets out the historical significance of the building on site;

- Demolition of the existing building is warranted, as it is not of architectural or historical merit, it is in poor structural condition and as there is a live permission to allow for its demolition;

Embankment & Structural Integrity

- The retaining wall permitted under FCC Ref. F99A/0001 was not constructed, the existing embankment is unstable and the potential collapse of the embankment poses a significant risk to the existing house;
- Correspondence from an engineer is appended to the grounds of appeal to address structural engineering matters arising from the proposed development. The correspondence asserts that the proposed development would provide for effective stabilisation of the embankment;
- Proposed development would set the building back further into the embankment and would form a retaining wall to the embankment. A letter of consent for making the planning application was submitted from the owner of No.1 Thulla on Dunbo Hill;

Layout & Design

- Proposed development allows for an increased set back from the building to the roadside, which would improve the setting of the building on site;
- Proposed building design is vernacular in style, involves simple massing and would be finished in modern materials with a contemporary twist;
- Design of the proposed building is more in keeping with the local vernacular than the building previously permitted on site;
- Proposed building height would be 2.37m above the height of the existing parapet level of Harbour View House and 0.16m above the height of the building previously permitted. Proposed building height could be reduced by 0.5m;

- Additional photomontages of the proposed development relative to the Old Courthouse are submitted with the grounds of appeal, which it is considered would have satisfied the Planning Authority's Conservation Officer;
- A selection of images are included to highlight the contemporary design statement made by the west-facing glazing;
- A revised parking arrangement in the form of two parallel spaces is provided to address matters raised by the Roads Department;
- Two options for material finishes are suggested; a grey or a bronze vertical cladding.

6.1.2. The appeal is accompanied by correspondence from an Engineer, a Conservation Report and photomontages of the proposed development.

6.2. **Planning Authority Response**

6.2.1. The Planning Authority response to the grounds of appeal can be summarised as follows:

- The live permission to redevelop the site, including demolition of the existing building, was taken into consideration by the Planning Authority in their assessment;
- Harbour View House was not in the ACA at the time of the previous decision to grant planning permission in 2008, but it is now included within the ACA, which affords it additional levels of protection;
- Exceptional circumstances not to retain and reuse the existing house have not been provided by the appellant, as is required in the Development Plan;
- The proposed building design is not considered acceptable with no rationale provided for the proposed design relative to the ACA;
- Section 48 contributions should be attached if a grant of permission is issued.

6.3. **Observations**

6.3.1. None.

7.0 Assessment

7.1. Introduction

- 7.1.1. In December 2008, planning permission was granted by the Planning Authority under FCC Ref. F08A/0249 for redevelopment of the appeal site involving demolition of the building on site, Harbour View House, and the construction of a four-storey building containing three apartments and undercroft parking. Condition No.2 of the permission required omission of the third-floor (penthouse) level containing one of the apartments, while Condition No.6 required monitoring of structural works to the 12m-high embankment to the rear and side. Subsequently in May 2013, the Planning Authority decided to grant an extension of duration of this planning permission until November 2018 under FCC Ref. F08A/0249/E1. To date this permission has not been commenced and the subject application comprises revised proposals to redevelop the site to accommodate a new building containing two three-bedroom semi-detached houses. The Planning Authority decided to refuse to grant planning permission for the development for four reasons, primarily relating to the demolition of the existing building and the impact of the development on the character of Howth historic core ACA. The site is located at the northwestern entrance to the historic core of the town, slightly elevated over the harbour area.
- 7.1.2. Subject to planning and environmental considerations addressed below, the principle of redeveloping the appeal site for two houses is permitted on lands zoned 'TC – Town & District Centre' within the Fingal Development Plan 2017-2023. I also note that the floor areas and room sizes for the proposed houses comply with the relevant standards. Consequently, I consider the main planning issues arising from the grounds of appeal and in assessing the proposed development are as follows:
- Demolition of the Existing Building;
 - Impact on Architectural Heritage.

7.2. Demolition of the Existing Building

- 7.2.1. Reasons for refusal Nos.1 and 2 of the Planning Authority's decision related to the loss of a building that positively contributes to the character of the Howth ACA. In response, the grounds of appeal state that there are exceptional circumstances for

allowing the demolition of the existing building, given that it is of no architectural or historical merit, it is in poor structural condition, it would facilitate stabilisation of the embankment and as there is a live permission to demolish it.

7.2.2. The Development Plan contains numerous objectives specifically relating to development within an ACA. Objectives CH32, CH33 and DMS158 set out the Planning Authority's preference for maintaining and reusing historic buildings. Objective DMS158 specifically refers to Table 12.11 of the Development Plan, which sets out that 'existing buildings and structures should be retained and reused rather than replaced. Applications for demolition of buildings that contribute to the character of an ACA will only be granted in exceptional circumstances. The onus will be upon the applicant to justify the demolition of the building'. The Development Plan does not set out criteria as a guide to such 'exceptional circumstances'. Section 57(10)(a) of the Planning & Development Act 2000, as amended, sets the same level of protection for Protected Structures and I recognise that an ACA would not normally be provided with the same level of protection as Protected Structures. The Architectural Heritage Protection – Guidelines for Planning Authorities require consideration of a host of criteria where it is proposed to demolish a building within an ACA, including placing the onus on the applicant to make the case for demolition. The Guidelines do not specifically require 'exceptional circumstances' to allow for demolition to be justified, but they do require consideration of the 'material effect' to be sufficiently justified and I consider this a more reasonable measure and approach in assessing the impact of the proposed demolition works.

7.2.3. The existing building is currently vacant and I am satisfied that it does contribute to the character of the ACA. A Conservation Report has been included with the grounds of appeal to set out the historical significance of the house on site. This asserts that the original building has been undermined by various interventions overtime and that the loss of this building would have no conceivable impact on the ACA, given the disconnect between the building and the main core of buildings within the ACA. While I would acknowledge that the quality of the building has been eroded and that there are buildings of greater merit for protection within the village centre, I am not convinced that these matters alone provide sufficient planning rationale for demolishing the building.

- 7.2.4. The grounds of appeal also assert that the existing live planning permission to demolish the buildings on site (FCC Refs. F08A/0249 & F08A/0249/E1) provides justification for demolition of the building on site as part of the subject appeal. In December 2008, when the Planning Authority originally granted permission for demolition of the building, the appeal site was not located within an ACA, but it is currently. Consequently, given the altered planning context, I do not consider that the previous planning permission provides sufficient justification for allowing demolition of the building.
- 7.2.5. Reason for refusal No.4 of the Planning Authority decision related to the absence of information regarding the stability of this embankment. As part of the grounds of appeal, the appellant has submitted correspondence from an engineer, which outlines that the existing building on site is in poor structural condition and also that the proposed development would address stabilisation of the embankment to the rear. According to this correspondence, there is evidence of recent subsidence to the embankment and that the stabilisation of the embankment is probably dependent upon demolition of the existing house. No visual evidence is provided to support this. According to the engineer, the proposed development would involve the construction of a retaining wall forming the rear of the building and this would address stabilisation of the embankment. It is stated that the embankment is formed of sand, gravel and cobbles, however, a detailed geotechnical report regarding the current site conditions and works to the embankment has not been submitted by the appellant. The existing house is set away from the embankment based on section drawing (No. 2017-03-P-400) and the situation does not appear to have altered significantly since 1999 based on the drawings submitted with FCC Ref. F99A/0001 (see Drawing Nos. 3627-401 & 3627-402). While I recognise that the correspondence provided by the engineer refers briefly to ground conditions, including recent instability of the embankment and structural concerns regarding the house, the information provided by the appellant does not definitively set out sufficient rationale for allowing demolition of the existing building.
- 7.2.6. In conclusion, based on the information provided, I am not satisfied that the applicant has set out sufficient rationale to allow for the demolition of Harbour View House. Consequently, the proposed development would detract from the character of the ACA and would be contrary to the provisions of the Architectural Heritage Protection

– Guidelines for Planning Authorities and objectives CH32 and CH33 of the Development Plan, and, accordingly, permission should be refused for this reason.

7.3. Impact on Architectural Heritage

- 7.3.1. The Planning Authority's reason for refusal No.3 was also based on the proposals being contrary to Objective DMS157 of the Development Plan, which requires development to positively enhance the ACA, due to concerns regarding the height, scale, mass, proportions and materials. The grounds of appeal assert that the proposed building design would be more in-keeping with the local vernacular style than the previous permission, involving a simple massing, and would be finished in modern materials with a contemporary twist. In response to the grounds of appeal, the Planning Authority noted that rationale for the architectural design in the context of the ACA has not been justified by the appellant.
- 7.3.2. Taking measurements from road level and excluding the chimneys on the existing house, the proposed building roof-ridge height (c.10.5m) would be c.1.9m higher than the roof ridge height of the existing building and a similar height to the previously permitted building (c.9.7m to 10.6m), when the third-floor level is omitted. The grounds of appeal outline that the roof ridge height of the proposed building could be reduced by a further 0.5m. Revised drawings do not appear to have accompanied the appeal, but the photomontages submitted with the appeal do appear to portray this reduced height, based on comparisons with the existing building height. The appeal site is wider than the site subject of the previous permission (Reg. Ref. F08A/0249) and the proposed building would be c.6m wider than the previously permitted building and c.4m wider than the existing building when viewed directly from the front off Church Street and the amenity area along Harbour Road. The proposed building would also occupy a larger footprint than the existing house building and permitted building. Accordingly the scale, height and mass of the building is greater than that previously permitted and that of the existing building.
- 7.3.3. As stated above, the existing building does contribute to the character of the area. Proposals need to have sufficient regard to the form and scale of surrounding buildings within the ACA, which covers an expansive area and includes a mix of landmark buildings and vernacular structures, which vary in height to reflect the topography. While I accept that the proposed design would provide for a distinctive

building following a contemporary design approach, I am not satisfied that the scale, mass and material finishes for the proposed building would respect, complement or positively enhance the character of the ACA and, therefore, the proposed development would be contrary to the provisions the Development Plan.

Accordingly, I recommend that permission should be refused for this reason.

- 7.3.4. The Old Courthouse approximately 6m to the northeast of the site on the opposite side of Church Street is included within the Record of Protected Structures (Ref. 567). Objective CH20 of the Plan seeks to ensure that any development affecting the setting of a Protected Structure is sensitively sited and designed, is compatible with the special character, and is appropriate in terms of the proposed scale, mass, height, density, layout, materials and impact on architectural or historic features. The ground-floor of the proposed building would be set on ground elevated approximately 1.8m above floor level of the Old Courthouse. The primary view of the Old Courthouse is from the northeast off Harbour Road and the amenity areas along the harbour flanking this. The proposed building would be highly visible to the rear of the Old Courthouse, and would be overly dominant when viewed to the rear of the Old Courthouse by virtue of the height, mass, scale and material finishes to the building, including the extensive use of vertical cladding. Accordingly, the proposed building design would not be sensitive to and would seriously detract from the setting and character of the Protected Structure and I recommend that permission should be refused for this reason.

8.0 Appropriate Assessment

- 8.1. Having regard to the minor nature of the proposed development, the existing building on site, the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the 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 permission be refused, in accordance with the following reasons and considerations.

10.0 Reasons and Considerations

1. Having regard to the location and the existing development on site, which contribute to the character of the Howth historic core Architectural Character Area, the objectives of the Fingal Development Plan 2017-2023 and the provisions of the Architectural Heritage Protection – Guidelines for Planning Authorities, notwithstanding the additional details that accompanied the appeal, it is considered that the proposed development, by reason of the loss of an existing building, for which sufficient rationale has not been justified by the applicant, would detract from the character of the Architectural Character Area, would be contrary to Objectives CH32 and CH33 of the Fingal Development Plan 2017-2023, which aim to maintain and reuse historic buildings and would be contrary to the requirements set out in the Architectural Heritage Protection – Guidelines for Planning Authorities. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the height, mass, scale and material finishes for the proposed development, on a prominent site within Howth historic core Architectural Character Area and elevated above and to the rear of The Old Courthouse, a Protected Structure, and to the objectives of the Fingal Development Plan 2017-2023, it is considered that the proposed development, by reason of its insensitive design and setting proximate, elevated and to the rear of The Old Courthouse, would seriously detract from the setting and character of the Old Courthouse and would be contrary to Objective CH20 of the Development Plan, which seeks to ensure that any development affecting the setting of a Protected Structure is sensitively sited and designed. Furthermore, the proposed development would fail to positively enhance the ACA and, therefore, would be contrary to Objective DMS157 of the Development Plan, which seeks to support new development that makes a positive contribution to an ACA. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

28th March 2018