



An
Bord
Pleanála

Inspector's Report ABP-300813-18

Development	2 apartments
Location	Units 6-11, Park Springs, Nephin Road, Cabra, Dublin 7
Planning Authority	Dublin City Council Nth
Planning Authority Reg. Ref.	4181/17
Applicant(s)	OPARI Ltd
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Opari Ltd
Observer(s)	Robert and Deirdre Collison; Frank Hand; Alexandra Spandonis; Brendan Murray and Lorraine Christian; Joan Burton TD; David and Joanne Heffernan; Joan Maher; Brian and Isabel Kilmartin

Date of Site Inspection

1st June 2018

Inspector

Una O'Neill

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	6
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	7
5.2. Dublin City Development Plan 2016-2022	7
5.3. Natural Heritage Designations	8
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Planning Authority Response	9
6.3. Observations	9
6.4. Further Responses.....	11
7.0 Assessment.....	11
8.0 Recommendation.....	16
9.0 Reasons and Considerations.....	16

1.0 Site Location and Description

- 1.1. The subject site is located on the western side of Nephin Road, north of the junction with Blackhorse Avenue, in a residential suburb northwest of Dublin City Centre.
- 1.2. The site, which has a stated area of 1848sqm, is a narrow linear infill and backland site which comprises two detached blocks of two storey apartments. The site is bounded to the west and north by the rear gardens of two storey dwellings located off Villa Park Avenue and to the south by the rear gardens of dormer bungalows within Lyndon Gate. The site access is to the southeast, off Nephin Road.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Construction of two 1-bed apartments at the second floor (roof level) to the rear block of apartments at Park Springs (above existing units 6-11)
 - Removal of the existing hipped roof above units 6-11 and construction of a mansard style roof with two flat roof dormer projections.
 - Removal of study from existing one bed apartment at first floor level and replacement with a separate stairwell for independent access to roof level apartment.
 - Removal of recessed entrance and replacement with flush entrance with external canopy over to the northeast elevation to allow extra internal space for provision of stairwell.
 - 4 no. new car parking spaces in addition to the existing car parking (8 spaces exist for units 1-5 and six for units 6-11).
- 2.2. The floor area of the new build is stated to be 140sqm.

3.0 Planning Authority Decision

3.1. Decision

Permission REFUSED for the following reason:

The proposed development would be overbearing in its relationship with adjacent residential properties and would adversely affect privacy. Having regard to its orientation and proximity to site boundaries including the proximity of windows and balconies facing boundaries. It is considered that the proposed development would constitute over-development of the site and would be contrary to Development Plan Standards and the Land Use Zoning Objective Z1 To protect, provide and improve residential amenities. The proposed development would therefore seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report generally reflects the decision of the Planning Authority. The following is of note:

- The impact of the proposed additional floor on the residential amenity of the properties on Villa Park Avenue and Lyndon Gate is the biggest concern of the Planning Authority.
- The height increase and proximity to the site boundaries, with proposed windows and balconies in the elevations facing these boundaries, would have a detrimental impact on the residential amenity of the occupants of the surrounding two-storey houses at Lyndon Gate and Villa Park Avenue in terms of overbearing and overlooking.
- The scale of the proposed development is excessive on this very restrictive site and would have an overbearing relationship with the adjoining properties which it would unduly overlook. The Planning Authority notes that the provision of additional housing units in a Z1 zone is acceptable in

principle; however, it recommends that the proposed development be refused for its impact on residential amenity.

3.2.2. **Other Technical Reports**

Engineering Drainage Division – No objection subject to conditions.

Roads and Traffic Planning Division – No objection, subject to conditions in relation to cycle parking and costs.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

A number of submissions were received, the issues within which are largely addressed in the grounds of appeal.

4.0 **Planning History**

1378/96: Permission GRANTED for demolition of existing derelict house and for the erection of 2 no. 2 storey blocks of apartments, block A consisting of 6 no. 1 bedroom apartments and block B of 4 no. 2 bedroom apartments in two alternative locations on the site.

A condition of the permission required that no kitchen, bedroom or living/dining room windows at first floor level would directly overlook the rear gardens of houses on Villa Park Avenue or Lyndon Gate.

PL29N.101396: Permission GRANTED for revised two storey apartment block B comprising 6 apartments and revised car parking layout on enlarged site at 7-9 Nephin Road.

C4: The northwestern façade of Block B shall be redesigned in such a way that no kitchen, bedroom or living/dining room windows at first floor level shall directly overlook adjoining property....

5.0 Policy Context

5.1. National Policy Guidance

- Project Ireland 2040 National Planning Framework (2018)
- Sustainable Urban Housing: Design Standards for New Apartments (2018)
- Sustainable Residential Development in Urban Areas (2009)
- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)

5.2. Dublin City Development Plan 2016-2022

- Zoning objective Z1, the objective for which is ‘to protect, provide and improve residential amenities.’
- Chapter 5: Quality Housing
- Section 16.7.2, Building Height: Max height of 16m.
- Section 16.2.2.2 and 16.10.10, Infill Development.
- Section 16.2.2.3, Alterations and Extensions
- Section 16.10.1, Residential Quality Standards, Apartments
- Parking: Area 3 applies to the appeal site. Maximum requirement for 1.5 parking spaces.

The following policies apply:

- SC13: To promote sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the city, which are appropriate to their context ... having regard to the safeguarding criteria set out in Chapter 16 (development standards)...and for the protection of surrounding residents, households and communities.
- QH1: To have regard to the national guidelines relating to residential development...

- QH8: Sustainable development of vacant or under-utilised infill sites, which respect the design of the surrounding development and the character of the area...
- QH18: Promote high quality apartments and amenity within individual apartments and within each apartment development...

5.3. **Natural Heritage Designations**

The site is not within or adjacent to a Natura 2000 site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The applicant has appealed the decision of Dublin City Council to refuse permission for the proposed development. The grounds of appeal is summarised as follows:

- Development complies with national policy in relation to provision of dwellings, density standards, and the design standards for apartments.
- The proposed development is in keeping with development plan policies and standards.
- In relation to alterations and extensions, the development plan states that works at roof level including roof terraces are to respect the scale, elevational proportions, and architectural form of the building. The proposal will not adversely affect the character of the roofline and respects the scale and form of the building.
- The scale of the development is small. The increase in height is minimal, increasing by 1.5m. The overall height of the building at 8.7m is below the development plan standard of 16m for this low rise area. The proposed design, comprising a mansard roof, will contribute positively to the urban character of the area.
- To address concerns raised in relation to overlooking, the proposal has been redesigned to include 1.8m high opaque glazing on sections of the balconies in front of proposed double doors of the apartment to the south-west and 1.1m

high obscure glazing to balcony screen of apartment to the south-east. This will ensure privacy of surrounding areas is protected. In addition, the existing boundary comprises mature trees and shrubs which will help to increase screening and protect adjoining residential amenities.

- The proposal will not result in overdevelopment, as stated in the refusal, as the increase in height is minimal, the building block footprint and distances to boundaries will not change. The development is a minor extension to what exists. The proposed development will improve the character of the existing residential building on the site and the design has had regard to the context, setting and amenity of the area.
- The proposed development complies with private open space and communal amenity space standards.
- A shadow study and sunlight analysis is submitted with this appeal, undertaken by 3D Design Bureau. The proposed development will not result in undue overshadowing of the rear gardens of the surrounding properties. There will be no noticeable impact to the levels of sunlight received on the neighbouring gardens.

6.2. **Planning Authority Response**

None.

6.3. **Observations**

Seven observations in total were submitted, six from the residents of Lyndon Park Gate and Villa Park Avenue and one from a local TD on behalf of these residents. The observations are summarised as follows:

- Proposal will directly overlook dwellings and rear gardens adjoining the development at Villa Park Avenue and Lyndon Gate with resultant loss of privacy. The proximity of the development, new windows and balconies will also give rise to potential for increased noise from the balconies.

- The use of opaque glazing does not adequately address the issues, with concern raised that opaque glazing can be changed. Opaque glazing is also a poor design solution for future residents.
- Overlooking could give rise to safety issues.
- Screening afforded by trees does not apply in winter.
- The design of the roof affects the skyline and is out of character with the area. The proposed new roof and associated windows and balconies will be overbearing.
- Concern is raised in relation to overshadowing of rear sections of gardens.
- Existing apartments 8, 9 and 11 will need to be reduced in area to facilitate stairs to the new apartments.
- Lack of diversity in unit sizes within this block. All are one bed units.
- It is unclear if the existing building is sound and stable to support an extra floor.
- The current development is mismanaged, with noise pollution and disruption issues, anti-social behaviour as well as extensive and persistent litter. The building and grounds are poorly maintained, eg exposed pipes and electric cables; damaged door bells, overgrown green spaces etc.
- Concern raised in relation to potential destruction of existing trees along the boundary during construction.
- There is no lift proposed for access to the new third floor.
- Potential fire safety and access issues.
- No waste storage facilities have been indicated on the plans. There is a constant skip on site.
- There is no evidence as to how the four parking spaces are to be accommodated in the existing overcrowded car park. Bin storage takes up space in the existing parking area which is not factored in. No disabled parking space or bicycle space indicated.
- Lack of time afforded to residents to reply to the appeal.

- Inaccuracies in the application are noted, including the following: existing northern elevation as shown on the plans is not accurate, a window is missing; contiguous drawings shows distance to rear wall of dwelling at Villa Park Avenue to the elevation of the apartment as being 26.2m, but this is 22.8m; the boundary wall is 2.98m high and not 3.2 as indicated on the drawings; extensions to the rear of dwellings no. 13 and 11 on Villa Park Avenue have not been taken into account in the measurements shown; reference is made to the Navan road in sunlight/daylight analysis in error.
- Although there is a housing crisis, the proposed extension would constitute poor design and be injurious to the existing amenities of residents.

6.4. Further Responses

None.

7.0 Assessment

- 7.1. The applicant proposes to construct two one bed apartments through the addition of a new floor to an existing two storey apartment building comprising six one bed apartments.
- 7.2. The subject site is located within zoning objective Z1, the objective for which is 'to protect, provide and improve residential amenities'. I consider the development as proposed to be acceptable in principle with the zoning objective for the area
- 7.3. The primary issues for assessment relate to
- Design and Impact on Amenities of the Area
 - Apartment Sizes and Layout
 - Impact of Development on Existing Apartments

Design and Impact on the Amenities of the Area

- 7.4. The applicant states the proposed addition of two apartments to this existing development is in accordance with national and development plan policy and will deliver additional housing at a time of significant shortage. The applicant has amended the application as part of the grounds of appeal to incorporate 1.8m high

obscure glazing to the proposed south-western balcony and 1.1m high glazing to the remaining glazed elements of that balcony. In relation to the proposed south-eastern balcony, 1.1m high obscure glazing is also proposed.

- 7.5. The observers to the appeal consider the addition of opaque glazing is insufficient in addressing the issues of overlooking, loss of privacy and the overbearing visual impact of the proposal. Furthermore concern is raised in relation to the current management of the site, including parking and waste management issues and the confounding of these issues through the provision of two additional apartments.
- 7.6. It is proposed to remove the existing hipped roof from this building and replace with a mansard type roof, with an overall increase in height of 1.5metres. Two flat dormer projections are proposed on the northern elevation of the new mansard roof, facing the rear of Villa Park Avenue, with the windows serving these dormers relating to the bedrooms. A lower flat roof dormer is also proposed on the northern elevation with smaller windows, which are to serve stairwells. A wraparound balcony is proposed off double doors to the kitchen area of the new apartment on the southern and western elevation and a balcony is provided for the other apartment on the eastern elevation.
- 7.7. It was a condition of the parent permission for this apartment block that no kitchen, bedroom or living/dining room windows at first floor level would directly overlook the rear gardens of houses on Villa Park Avenue or Lyndon Gate. It was a further condition of permission ref PL29N.101396 that the northwest elevation be redesigned such that no kitchen/bedroom/living space would overlook adjoining properties. As a result the building as it exists has been designed with a limited number of angled first floor windows on the elevations facing the rear of Villa Park Avenue and the rear of Lyndon Gate.
- 7.8. With regard to the elevation facing Lyndon Court to the south, I note that the second level balcony will comprise a 1.8m high x 1.95m wide opaque screen which will mitigate the level of direct overlooking from the proposed sliding door which provides access from the kitchen of apartment 12. The remainder of the balcony will have a 1.1m high opaque screen. The users of the balcony standing to the side of the high screen would therefore have views into the neighbouring gardens at Lyndon Gate and the dwelling to the west. The elevated position of the balcony in relation to these

gardens would cause it to be a dominant presence, particularly given the distance to boundaries of 9m to no. 4 Lyndon Gate and 6.7m to the boundary with the garden of the dwelling to the west. Accordingly, I consider that, inevitably, privacy would be demonstrably affected by such overlooking and the experience of those using the neighbouring gardens would be changed in its character by the very presence of the balcony. While there is significant planting along this boundary (most of it being on the Lyndon Gate side), the planting is deciduous and its function as a mitigating factor is limited. I am of the view that the proposal would be seriously injurious to the amenities of Lyndon Gate as a result of overlooking from the balcony level and the development would be visually obtrusive given the scale of the second floor level in close proximity to the boundary.

- 7.9. The northern elevation fronts onto the rear of houses and gardens accessed off Villa Park Avenue, with the apartment building a distance of approx. 3m from the boundary with these gardens. These dwellings have long rear back gardens which results in a distance of 22m-26m from the apartment block to the rear of the dwellings. The proposed dormer windows on the northern elevation is a significant departure from the original design of the existing building which provided for angled windows only at first floor level to avoid overlooking. While loss of privacy to the dwellings themselves is, in my view, not significant given the depth of the rear gardens, the proposal will nonetheless result in significant overlooking of the rear gardens and given the close proximity of the building to the boundary, the extra floor level and mansard/dormer roof style would be visually obtrusive and incongruous at this backland site.
- 7.10. The balcony on the east elevation is recessed, although given the angle of the roof persons on the balcony will have views of the surrounding area. However this balcony faces the car park and apartment building east of this block and I do not therefore consider this will result in a significant loss of amenity to the neighbouring residential units. However, I am of the view that the proposal of a balcony at this elevated position on a backland site surrounded by two storey and dormer bungalows would give rise to potential noise issues and increased perception of overlooking.

Apartment Sizes and Layout

- 7.11. I have assessed the proposed development against the guidelines Sustainable Urban Housing: Design Standards for New Apartments (2018). The proposed one-bed unit 12 has a stated floor gross floor area of 67.1sqm and unit 13, also one bed, has an area of 68.4sqm. The minimum standard is 45sqm, therefore the proposals meet the requirements in this regard. Adequate private open space is provided for in the form of balconies off the living spaces of the apartment.
- 7.12. I note that floor to ceiling heights within the apartments are limited due to the slope of the roof. For instance, the double bedroom in each apartment has a stated area of 14.6sqm, however based on the floor area which caters for full floor to ceiling height and excluding storage, the usable room size is by my measurements 11.8sqm. The minimum standard for a double room is 11.9sqm. While overall the room sizes appear to be met, the area of usable space is limited by virtue of the design. The layout of the apartments with reduced heights to sections of the main bedrooms, bathrooms, kitchens, and living spaces results in my view in poor circulation space and a poor quality living environment for future residents, contrary to the guidance document Quality Housing for Sustainable Communities 2009.

Impact of Development on Existing Apartments

- 7.13. From an examination of the drawings, I note that the ground level entrance to the scheme is being amended with the recessed entrance extended to be flush with the existing building line and a canopy added to the external area. This will result in a small increase to the bathroom area of apartments 8 and 11 on the ground and first floor levels. This appears to be required to allow for extra space for the existing stairwell to be extended upwards from the first floor level to the new second floor.
- 7.14. A second stairwell is being added at first floor level to allow independent access to the other new apartment unit. This stairwell will necessitate the removal of the study (6.4sqm in area) from apartment no. 9 on the first floor level, with the stated floor area being reduced from 54.1sqm to 45.3sqm. The minimum apartment size for a one bed apartment, as set out in the Guidelines, is 45 sqm. This amendment is considered acceptable in terms of its impact on the existing apartment.
- 7.15. I note that the bathroom to unit 9 is ventilated via a rooflight in the existing building. There is no indication as to how this bathroom is to be ventilated with the addition of a new floor above. The bathroom in unit 8 is served by a frosted window, albeit I note

on the original plans this was also to be served by a rooflight. Should the Board be minded to grant permission, this issue with apartment 9 would require to be resolved by way of condition.

- 7.16. The applicant has indicated a parking layout on the plans which demonstrates the number of parking spaces proposed can be accommodated and the Roads and Traffic Division of Dublin City Council are satisfied with the proposals. I note that upon site inspection there were no markings for parking on the ground and the parking present on the site was haphazard in layout. A bin store area is indicated on the layout and existing on site, however the size of this unit did not appear to meet the requirements of the existing units and therefore I have concerns that it will not be adequate in meeting the requirements of the new units. Should the Board be minded to grant permission, I recommend that a layout confirming an adequate enclosed bin store be provided as part of this development, in accordance with the requirements of the planning authority

Other Matters

- 7.17. The observers have raised issues in relation to discrepancies on the plan. While I acknowledge that this is the case, I have sufficient information before me and from visited the site to allow for a full and comprehensive assessment of the proposal.
- 7.18. Any enforcement issues raised are a matter for the planning authority and issues in relation to fire regulations do not come within the remit of this planning assessment. In relation to concerns about the buildings structural status, there is no information before me that would lead me to question that the proposed development cannot be undertaken subject to best practice engineering standards being complied with.

Appropriate Assessment

- 7.19. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any 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 a European site.

8.0 Recommendation

- 8.1. It is recommended that permission be refused for the reasons and considerations set out hereunder.

9.0 Reasons and Considerations

Under the Dublin City Development Plan 2016 – 2022, the site is subject to the zoning objective Z1 ‘to protect, provide and improve residential amenities’. Having regard to the backland context of the site and pattern of development in the area, the proposed second floor level apartments would, due to the distance to boundaries of the building, the design of the additional level, and proximity of windows and balconies to rear gardens adjoining the boundaries, be visually obtrusive and overbearing and would lead to overlooking of adjoining gardens and a loss of privacy to same. It is therefore considered that the proposed development would seriously injure the amenities of neighbouring residential properties, would contravene the aforementioned zoning objective, and would be contrary to the proper planning and sustainable development of the area.

Una O’Neill
Senior Planning Inspector

26th June 2018