



An
Bord
Pleanála

Inspector's Report ABP-301176-18

Development

Development of three new 3 storey, three bedroom house & conversion of the vacant first floor of the existing building into a three bedroom apartment.

Location

Site to the rear of Emmet Hall, 122-122A Emmet Road, Inchicore, Dublin 8.

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

2954/17

Applicant(s)

Clinton Mc Donald.

Type of Application

Permission.

Planning Authority Decision

Grant.

Type of Appeal

Third Party

Appellant(s)

1. Colin Fay & others
2. Catherine Byrne TD

Observer(s)

1. John Connolly
2. Kilmanham & Inchicore Heritage

Group

3. Sean Haughey TD
4. Maureen O' Sullivan TD.
5. Clare Daly TD & others

Date of Site Inspection

13th of July 2018.

Inspector

Karen Hamilton

1.0 Site Location and Description

1.1. The subject site comprises of 2 no. 2 storey buildings located at the end of a terrace of buildings which front directly onto Emmet Road, Inchicore, Dublin 8. The site forms part of a neighbourhood area and the ground floor of the buildings are used for retail, although currently vacant. There is no direct access to the rear of the site which is currently overgrown. The rear of the Parish buildings back onto the west and a row of small neighbourhood units with residential along the south. The rear boundary contains a c. 1.5m high block wall.

2.0 Proposed Development

2.1. The proposed development would comprise of the following:

- Three residential units to the rear of the existing site,
- Demolition of one shop unit fronting onto Emmet Road for a new access to the rear of the site,
- One new residential unit located in the refurbishment of the upper floor of an existing building fronting onto Emmet Road.

3.0 Planning Authority Decision

3.1. Decision

Decision to grant permission subject to 15 no. conditions of which the following are of note:

C 3- Residential unit no. 3 shall be deleted from the proposed scheme. Prior to commencement of development the following was to be submitted to the planning authority.

- a) Revised fenestration details to residential unit no. 2,
- b) A revised block plan and,
- c) A revised landscape plan.

C 4- Details of the external materials and drawn details of a design for the access gates to the development shall be provided based on the heritage of site that is linked to the commemorative plaques displayed.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission following the submission of further information as summarised below:

- Concerns raised in relation to the overlooking of residential areas to the west, overbearing and visual intrusion from an adjoining road and potential for overshadowing the private garden space of 3 no. proposed units
- Submission of a Construction Management Plan.
- Submission of a detailed landscape plan including boundary treatment to the east and south and demarcation of public, semi private space edges, specifically defensive space, to the front entrances of the residential units.
- Detail of the front facade onto Emmet Road including the new entrance gate considering the commemorative plaques and
- Submission of a flood risk impact assessment.

The planners report referred to the overall design of the dwellings within a backland/ infill site and considered the further information submitted did not address the concerns raised and it was considered necessary to remove unit no.3 to permit the overall scheme. It was considered the applicant's response in relation to collaboration with the historic society, repositioning of the commemorative plaques, could be satisfactorily conditioned.

3.2.2. Other Technical Reports

Roads and Traffic Planning Division Report- No objection subject to conditions.

Drainage Division- Request for additional information on the flood risk impact.

Waste Management Division- No objection subject to conditions.

3.3. **Prescribed Bodies**

Irish Rail- None received

3.4. **Third Party Observations**

Three submissions were received from local councillors and residents of properties in the vicinity of the site and the issues raised related to impact on the residential amenity and traffic in the surrounding area.

4.0 **Planning History**

None on the site although a recent Board decision is noted which is directly opposite the site, along Emmet Road.

ABP 300386-17 (Reg Ref 3851/17)

Permission refused for the demolition of pub, dwelling & motorcycle workshop & construction of a 2-3 and part 4 storey residential/commercial development for reasons of poor design, scale and layout and impact on the future occupants, impact on the adjoining residential amenity by way of overlooking and overshadowing and removal of a pedestrian link.

5.0 **Policy Context**

5.1. **National Policy**

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).

Urban Design Manual, A Best Practice (DOEHLG, 2009)

The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009).

5.2. Dublin City Development Plan 2016-2022

The site is located on lands zoned Z3, Neighbourhood Centre, where it is an objective “*To provide for an improve neighbourhood facilities*”.

- Residential is a permissible use.
- Plot ratio 1.5-2.0
- Site coverage 60%

Neighbourhood Centre

Section 14.8 - Neighbourhood centres may include an element of housing particularly at higher densities and above ground floor. When opportunities arise, accessibility should be enhanced.

Section 14.9- Vacant levy. Z3 neighbourhood centre lands are prioritised for renewal and regeneration because of their critical role supporting sustainable neighbourhoods.

Back land Development

Section 16.10.28

- The development of individual back land sites can conflict with the established pattern and character of development in an area.
- Back land development can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise, disturbance
- Applications for back land development will be considered on their own merits.

QH8- Promote the development of vacant or underutilised infill sites and favourably consider higher density proposals with respect the design of the surrounding development and the character of the area.

Residential

QH 1- To have regard to the national guidelines on residential development.

QH24- “To resist the loss of residential use on upper floors and actively support proposals that retain or bring upper floor premises into residential use in order to

revitalise the social and physical fabric of the city through measures such as the Living City Initiative ...”

Section 16.10.2 Residential Quality Standards – Houses

- 22 m separation distance is required between the rear of 2-storey dwellings,

The proposed development involves the alteration and loss of an area for on-street parking, therefore the following policy applies:

Section 8.5.6 Car parking

Policy MT14- To minimise loss of on street parking, whilst recognising that some loss of spaces is required for, or in relation to sustainable transport provision, access to new developments or public realm improvement.

Section 16.38.9 On street parking:

There is a presumption against the removal of on-street parking spaces to facilitate the provision of vehicular entrances to single dwellings in predominantly residential areas.

5.3. Natural Heritage Designations

The site is located c. 7km to the west of South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted from a group of local residents and a local councillor and the issues raised are summarised below:

Residential Amenity

- The open space provision is contrary to policy QH18 of the development plan as it cannot meet the national residential quality standards and is of a poor quality.

- QH 19 endeavours to ensure that any new housing development closely reflects the character and scale of existing houses, unless there are exceptional reasons for doing otherwise.
- The application is over development on the site, is not in keeping with the character of the area and does not comply with policy NC2 in so far as the historic activities are not considered
- The proposal is excessive and does not meet the standards for light.
- The proposal will overlook and overshadow the adjoining properties and theory will not be built at street level.
- The rear wall to house no. 1 and gable end of house no. 2 cannot be accessed or maintained.
- The condition to remove one of the dwellings and redesign does not allow for consultation from local residents.
- The construction will cause a massive disruption on the surrounding area.

Traffic

- The development will cause a traffic hazard due to the narrow tunnel access gateway and proximity to the Emmet Road/ Bulfin Road junction.
- The removal of the on street parking space will cause further congestion in the vicinity and remove parking from the existing residents.

Built Heritage

- Emmet Hall is steeped in history as it was the Inchicore branch of the Irish Transport & General workers Union between 1913 to 1930.
- The hall was used as a training ground/ venue for the Irish Volunteers and the Irish Citizen Army between 1915 -1916 before the 1916 Easter Rising.
- The premises was home of Michael Mallin (executed 1916 leader)
- The removal of the ground floor unit will change the visit of the premises and undermine the importance of the historic premises.

6.2. Applicant Response

No response received.

6.3. Planning Authority Response

A response from the planning authority refers to the original report of the planning offer which it considers summarises the issues and justifies the decisions. The reduction in the number of residential units mitigate against the potential to have a negative impact on the amenity of the adjoining residents.

6.4. Observations

Five observations were received from councillors, local historic groups and interested members of the public in relation to the historic qualities of the building as summarised below:

- The building was home of Micheal Mallin (one of the executed leaders and Chief of Staff), a site which played such a central role to the 1913 lockout (association with Jim Larkin) and training and arming of volunteers in the run up to the 1916.
- Letters of support for the preservation of the historic building.
- This building is an important to history as the GPO.
- The use of the ground floor as an entrance will compromise the entire building.
- A similar building, No 16 Moore Street, was protected from development by the High Court as it was within an area of refuge for those fighting in the 1916 rising and this building is the same.
- Emmet Hall should be included in the list of Protected Structures and a National Monument and it was put forward to the Minister in 2007 and negotiations to purchase the building should be undertaken by the Council.

7.0 Assessment

- 7.1. An oral hearing request was submitted and following a recommendation from the inspector the Board decided that an oral hearing was not warranted in this case, on the basis that there was adequate information on the file.
- 7.2. The main issues of the appeal can be dealt with under the following headings:
- Principle of development
 - Impact on Residential Amenity
 - Impact on Visual Amenity
 - Access and Parking
 - Built Heritage
 - Water
 - Appropriate Assessment

Principle of development

- 7.3. The subject site comprises two buildings with retail units on the ground floor and forms part of a neighbourhood centre in the Kilmainham area. The proposed development includes the removal of one ground floor retail unit for vehicular access to the rear of the site to accommodate an additional 3 no. residential units. The proposal also includes a change of use of the first floor of the 2 storey building for a residential unit. The building is referred to as Emmet Hall in the application.
- 7.4. The site is located on lands zoned Z5, Neighbourhood centre, where it is an objective to "*To provide for an improve neighbourhood facilities*", and residential development is a permissible use. Section 14.8 of the development plan includes guidance for the appropriate development of neighbourhoods which may include an element of housing particularly at higher densities and above ground floor. The standards for plot ratio and site coverage for development on Z3 lands are 1.5-2.0 and 60% respectively. The applicant form details the plot ratio as 0.88 and the site coverage 34.2%, which I note and consider reasonable.

7.5. Therefore, having regard to the Z3 zoning on the site and subject to complying with other planning requirements as addressed in the following sections, I consider the principle of the proposal is acceptable.

Impact on Residential Amenity

7.6. The proposed development includes three new dwellings to the rear of an existing neighbourhood area on lands which may be described as back land or infill. The site is bound by a c 1.5m high block wall along the west of the site which separates the site from the rear of the Parish buildings, which includes the "Priest's house". The south of the site backs onto rear of a row of two storey terrace dwellings which are slightly raised in height. The height of the proposed dwellings range in height, style and orientation and are described below:

- Dwelling No.1, closest to the existing building is a three storey, three bedroom flat roof dwelling. The building is c. 9.2m in height and c.2m of excavation is required. The dwelling includes a balcony (3.5m²) to the west on the first floor and the rear garden is c. 25m².
- Dwelling No. 2, in the centre of the site, is located on a higher level than dwelling no. 1, c. 2.5m. The dwelling is 3 storey 3 bed with a pitched roof. The dwelling includes c. 46m² of rear open space.
- Dwelling No. 3, to the south west of the site, is attached to dwelling no.2 and is a three storey, three bedroom flat roof dwelling. The proposal includes a balcony (c. 3.6m²) along the first floor façade and 81m² rear garden space.

7.7. In addition to the 3 new dwellings, the proposal includes the conversion of the first floor of the existing building fronting onto Emmet Road to residential unit. The grounds of appeal are concerned the proposal is over development of the site, will cause overbearing and overlooking on the adjoining properties and is contrary to policy QH19 and NC2 of the development plan, which requires the new dwellings to be in keeping with the character of the surrounding area. Condition no. 3 required the removal of residential unit No. 3 from the overall development.

7.8. Open Space- The rear open space provided for each dwelling varies from c. 25m² to c. 80m². The proposed first floor apartment includes a 40m² rear balcony. Section 16.10.2 provides guidance for new dwellings where a minimum of 10m² of private

open space per bed space is required. Dwelling No. 1 also includes a front balcony in order to comply with the required standards. Section 16.10.10, infill housing, of the development plan states that the standards can be relaxed where the over development would benefit the development of underutilised lands. Therefore, having regard to the provision of open space and the use of an infill site I consider the provision of open space acceptable.

- 7.9. Overbearing- The proposed dwellings will be visible from the rear of the Parish buildings and rear of the existing residential dwellings to the south. Section 16.10.18, of the development plan, provides guidance for back land development and states it should not conflict with the established pattern and character of the development in an area. In addition, the Urban Design Manual- A best practice guide (2009) list 12 criteria for the successful design of residential development where the massing of new development should respect the existing buildings.
- 7.10. The overall scale of the dwellings at 3 stories and 9.25m in height is greater than the surrounding dwellings and whilst I notice the ground floor of the rear of the site is slightly lower than the surrounding area (no FFL are provided), the proposed development requires 2m excavation to facilitate dwelling no. 1. The overall design is a monolithic block with a slight pitch on dwelling no. 2 which is not a characteristic of those dwellings in the vicinity. Dwelling no. 1 is located c.6m from the rear of an existing dwelling to the west and includes a blank elevation towards the dwelling. I note condition no. 2 requires the removal of dwelling No. 3 from the overall development and having regard to the design, height and distance from to the existing dwelling I consider the dwelling would have an overbearing effect and I consider the removal of this dwelling from the overall scheme reasonable. In addition, I consider dwelling no. 1 and no. 2 would be visible from the rear of the Parish building and having regard to the height and design, I do not consider these dwellings are in keeping with the surrounding area and therefore does not comply with the guidance in the development plan for back land development or the national Urban design manual for new dwellings.
- 7.11. Therefore, having regard to the scale and mass and the proposed dwellings, I consider dwelling No. 1 will have an overbearing impact on the existing dwelling to the west of the site and I do not consider the overall design of dwelling no. 1 or no. 2 respects the character of the area and therefore does not comply with Section

16.10.28 and policy QH8 which states proposals should respect the design of the surrounding development and character of the area.

- 7.12. Overlooking- The proposed dwellings are three stories in height and having regard to their orientation on site there is potential for the front windows of dwelling no. 1, dwelling no. 2 and the rear balcony of the first floor residential unit and the balcony dwelling no. 1 and 3 for overlooking into the rear of the properties along the west. Section 16.10.28 refers to the need to prevent overlooking from backland developments on adjoining properties. In addition, Section 16.10.2 of the development plan requires a separation distance of 22m to be provided from the first floors. The first floor windows are c. 16m from the rear of the existing dwellings and the balconies are c.18 m from the dwelling and c.7m from the boundaries. Therefore, I consider the proposed development would cause overlooking into those properties to the west and have a negative impact on the residential amenity.
- 7.13. Overshadowing- Dwelling no. 1 is located c.6m from the rear of the existing dwelling to the west and will cause overshadowing in the morning. Dwelling No. 2 is located c. 7m from the rear of those properties along the south of the site and having regard to the slight difference in ground levels and the height of the dwelling I do not consider it will cause any overshadowing on the existing dwellings.
- 7.14. Having regard to the scale and massing of the proposed dwellings and the location and distance of the balcony and first floor windows, I consider the proposed dwellings would have an overbearing impact on the existing dwellings and cause overshadowing and overlooking. Therefore, I consider the proposed development would have a negative impact on the residential amenity of the existing properties and would not respect the character of the surrounding area.

Impact on Visual Amenity

- 7.15. The proposal includes the removal of an existing shop front within a defined neighbourhood centre for the purposes of a new vehicular entrance. The grounds of appeal are concerned the removal of the shop will have a negative impact on the amenity of the surrounding area. There is no uniform design of buildings along Emmet Road or the surrounding area and having regard to the location of the unit at the end of the existing terrace I do not consider the change of shop front would have a significant negative impact.

7.16. The applicant submitted an illustration of the proposed dwellings from Bulfin Road, to the south west, which indicates the dwelling no. 2 and no. 3 will be visible. Having regard to the assessment above, in relation to the monolithic design of the dwellings, I consider the three storey block design of the proposal would have a negative visual impact on the surrounding area.

Access and Parking

7.17. The proposed development includes the removal of a ground floor shop front to provide vehicular access to the rear of the site, 3 no caraprking spaces are provided in a carport under a first floor balcony. The proposal requires the removal of an on-street car parking space which the grounds of appeal argue will cause a detrimental impact on the surrounding area.

7.18. Car parking- The site is located in Area 2 of Map J of the development plan which allows for a maximum of 1 car parking space per residential unit. Condition no. 2 required the removal of one dwelling no. 1 from the overall scheme, which as discussed above is considered reasonable. Therefore, the provision of 3 no. spaces is acceptable for the two new dwellings and the residential unit on the first floor.

7.19. Access- A pay and display space is required to be removed to facilitate the new access. Section 8.5.9, 16.38.9 and Policy MT14 of the development plan includes guidance for car parking and whilst it is stated there is a presumption against the removal of on-street parking spaces to facilitate the provision of vehicular access to single dwellings, Policy MT14 recognises that some loss is required for access to new developments. I note the report of the Roads Department had no objection to the proposal.

7.20. Having regard to the overall scale of the proposal and the policies of the development plan I consider the access into the site, removal of an on-street parking space and the layout of the proposal would not cause a traffic hazard on the surrounding area.

Built Heritage

7.21. There are three plaques on the façade of the building, two on the first floor and one on the ground floor which relate to use of the hall for a number of historic events. The building is not a protected structure or located in an Architectural Conservation Area. A number of observations were received on the appeal in relation to the

impact of the development on the history of the building which fronts onto Emmet Road, Emmet Hall. It is submitted the hall was headquarters of the Inchicore branch of the Irish Transport & General Workers Union from 1913-1920 and housed Michael Maillin and his family, a leader of the Irish Army who was executed during the 1916 rising. The submission relate to the concern over the elevation changes to the shop front and the overall impact on the building.

- 7.22. The proposal includes the removal of the ground floor of the shop front and the remainder of the building is to remain intact. In addition the elevation changes to the façade of the premises will be minimal. The applicant responded to a further information request, to state that the existing plaques were erected by the applicant who is prepared to provide ironwork gates to commemorate the historical associated of the premises. Condition 4 b) required a design statement and drawn details of a design for the access gates to the development provided based on the heritage of the site and linked to the commemorative plaques displayed, which I consider reasonable to promote the historic attributes of the building.

Water

- 7.23. The site is located c. 100m to the south of the Cammock River and less than 100m from the edge of an area designated within the Catchment Flood Risk Assessment & Management (CFRAM) for Fluvial flooding – indicative 1% for 1 in 100year event. Following a request for the submission of a Flood Risk Impact Assessment the applicant submitted an extract from the CFRAM Maps, also included as part of the Dublin City Development Plan 2016-2022, which illustrates the location of the site outside any flood zones. The applicant states that the surface water will be dealt with by water butts and infiltration trenches.
- 7.24. Condition No 7 requires the submission of a site specific Flood Risk Assessment and the inclusion of soakaways and semi- permeable paving to deal with surface water. Having regard to the location of the site outside any of the identified flood zones I do not consider it reasonable to request the submission of a Flood Risk Impact Assessment and I consider the condition relating to the appropriate treatment of the surface water reasonable to prevent a negative impact on the surrounding area.

Appropriate Assessment

7.25. 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

8.1. I recommend that permission refused for the reasons and considerations below.

9.0 Reasons and Considerations

Having regard to the established pattern of development in the surrounding neighbourhood, it is considered that the proposed development by virtue of its scale, form and design would result in an unacceptable degree of overlooking on existing dwellings, is out of character with development in the vicinity and represents inappropriate back land development. The proposed development, in terms of excessive overbearing and overlooking would be contrary to the policies and objectives of the Dublin City Development Plan 2016-2022, in particular policy QH 8 for back land development, and the Urban Design Manual which accompanies the Sustainable Residential Development in Urban Area. The proposed development would as a result, seriously injure the visual and residential amenities of the area and would be contrary to the proper planning and sustainable development of the area

Karen Hamilton
Planning Inspector

18th of July 2018