



An
Bord
Pleanála

Inspector's Report ABP-301702-18

Development	Modifications to existing permitted development (ref: 3845/14) to front and rear elevations of units nos 2-8, including additional bedroom at second floor.
Location	18 Fairview Avenue, Marino, Dublin 3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2439/18
Applicant(s)	Halcyon Homes Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Marino and District Community Centre Ltd.
Observer(s)	None
Date of Site Inspection	11 th September 2018
Inspector	Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located on the southern side of Fairview Terrace, at the junction with Fairview Avenue, approximately 2.5km north-east of Dublin city centre, in a well-established residential area.
- 1.2. The site, which has a stated area of 1431sqm, comprises a vacant plot and is rectangular in shape. The site has a frontage of approx. 75m onto Fairview Terrace and 20m onto Fairview Avenue. The site is bounded to the west by the rear of properties 22-25 Windsor Avenue; to the south by the end of Windsor Lane (a laneway serving the rear of properties on Fairview Av. Lwr. and Windsor Avenue), a light industrial car repairs building, and the rear garden of 17 Fairview Avenue Lower. Adjoining the car repairs building on Windsor Lane is an infill 3 storey duplex apartment building. There is currently hoarding along the eastern boundary with Fairview Avenue Lower adjoining no. 17 and there is a block/brick boundary wall to Fairview Terrace, which is in a poor state of repair. The dwellings opposite the site on Fairview Terrace are two storey terraces of 1930's housing which form part of the Marino estate and are designated as a residential conservation area.

2.0 Proposed Development

- 2.1. The proposed development comprises modifications to seven permitted (unbuilt) dwellings. The site boundary includes an additional dwelling on the corner, which was permitted under a separate permission and forms part of the terrace, but to which no modifications are proposed. The amendments to dwellings 2-8 are as follows:

Ground floor level of each dwelling:

- Omission of 500mm cantilever to kitchen at front of building.
- New canopy over front door, alteration to bin store, and minor extension to recessed door area at the ground floor level to the rear.
- Reorganisation of the internal floor plan, including the relocation of the stairs and rear door.

First floor level of each dwelling:

- Reorganisation of the internal floor plan.

Second floor level of each dwelling:

- Extension of permitted floor area to incorporate a bedroom with ensuite and a utility room. This involves an extension of the rear building line at second floor level and removal of a section of terrace, and the addition of a small 600mm deep area to the front (in line with existing ground floor and first floor area) to facilitate an en-suite.
- Front terrace to be increased in depth from approx. 2.3m to 2.8m.
- Modified guard details to terraces at the rear, comprising obscure glass guarding 1.8m high.

3.0 Planning Authority Decision

3.1. Decision

GRANTED, subject to 8 conditions, including the following:

C2: Section 48 Development Contributions

C3: The development shall comply with all conditions of parent permission 3845/14 save as amended by this permission.

C4: The development hereby approved shall incorporate the following amendment:

- The rear/south facing windows to Bedroom type 04 in Houses 2, 3, 4 & 8 shall be fitted with and permanently retained in obscure glazing.

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 bedroom 04 windows would create additional overlooking toward the south over and above that currently experienced. In the case of Houses 5, 6 & 7 this would not be particularly an issue given the position of the sheds to the south but, as was the case in the parent permission 3845/14, the second floor windows to the new Bedroom 04 in Houses 2, 3 & 4 would overlook the rear garden of No. 17 Fairview Avenue Lower at a higher point than the approved windows to the lower floor. Additionally, while the windows to Bedroom 02 would be restricted by the projecting walls to either side the window to Bedroom 04 would be unrestricted. In this context, and given the window to the front/south, it is considered reasonable to require the rear/south window to Bedroom 04 to be fitted in obscure glazing to Houses 2, 3 & 4. Furthermore the window to Bedroom 04 of House 8 would also create issues of overlooking toward the rear of houses on Windsor Avenue to the southwest and so a similar requirement would be made of that dwelling.

3.2.2. **Other Technical Reports**

Engineering Report: No objection subject to condition.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

Five submissions were received from residents in the area. Issues raised are generally set out within the grounds of appeal and related to concerns about overdevelopment, parking, height, overlooking and overshadowing, and possible use of the houses for multiple occupancy given excessive number of ensuites.

4.0 **Planning History**

2355/17 - Permission GRANTED for construction of 1 no. 3 bedroom terraced home, redesigned from previous planning application 3845/14. The new build will be three storey in height with roof terraces at second floor, with proposed access for the development off Fairview Avenue.

PL29N.245431 (DCC ref 3845/14) - Permission GRANTED by ABP for construction of 6 x 3 bedroom terrace houses (one house was omitted by condition 3), three storey in height with setback roof terraces to north and south elevation at third floor and balconies at second floor facing the rear gardens.

The following condition is of note:

C3: (1) The first floor rear facing windows serving bedroom number 1 within houses numbered 2, 3 and 4 shall be permanently glazed with obscure glass.

(2) The first floor west facing window to house number 8 shall be permanently glazed with obscure glass.

Reason: In the interest of privacy and amenity.

The following application relates to the site adjoining part of the southern boundary of the appeal site, to the rear of 17 Fairview Avenue Lower, which adjoins the large light industrial unit, occupied as a car repair/motor parts business:

3004/18 – Permission GRANTED for minor revisions to approved (ref. 2196/15) 2 storey detached mews with attic space.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

- Zoning objective Z1, the objective for which is ‘to protect, provide and improve residential amenities.’
- Section 16.2.2.2 and 16.10.10, Infill Housing
- Section 16.10.2, Residential Quality Standards – Houses
- Section 16.10.12, Extensions and Alterations to Dwellings
- Appendix 17, Guidelines for Residential Extensions.

5.2. Natural Heritage Designations

The site is not located within or adjacent to a Natura 2000 site. The nearest Natura sites are the South Dublin Bay and River Tolka SPA (004024), some 700m to the south east and separated from the subject site.

6.0 The Appeal

6.1. Grounds of Appeal

The third party grounds of appeal, submitted by Marino and District Community Centre Ltd is summarised as follows:

- Marino is zoned Z2. The excessive scale and unsympathetic design of the proposed development would seriously injure the character and devalue the houses on Fairview Terrace.
- There is an inadequate step back from the pavement, only 1.2m. Fairview Terrace is a narrow road and the 3 storey development will dominate the 2 storey houses across the road.
- It is questioned whether the proposed development is residential considering all four bedrooms have large en-suites which suggests a design for individual rental accommodation.
- Parking of one space per dwelling is insufficient.
- The streets in the area are one way with limited parking. Fairview Terrace will not be able to cope with the additional cars and the footpath will be used for parking.
- The standard of design is very poor both inside and out. A condition from DCC requires bedroom 4 to have a window comprising obscure glazing. The ground floor kitchen/dining area is insufficient for a four bed dwelling and there are inadequate storage facilities.
- A two storey development would be more in keeping with the scale of the Marino Houses and this overdevelopment will detract from the architectural

design and historic character of the Marino Estate, an estate which will have its 100th anniversary in 2024 and has stood the test of time.

6.2. Applicant Response

The applicant has responded to the grounds of appeal as follows:

- The proposed amendments do not impact on the zoning of the site and are in keeping with the design intent of the parent permission.
- The scale of the houses is not affected by the amendments and neither is the height or the massing. The density of the site has also not been affected.
- The step back of the houses from the road has not been altered with this permission. The top floor continues to be recessed back, with the three storey element of the building being more than 5.5m back from the road.
- The design continues to provide for single occupancy dwellings. It is common for four bedroom houses to all have ensuites.
- The proposed amendments are intended to refine, simplify and improve the design and is in line with the policies and objectives of the development plan.
- The proposal will not unduly impact on the amenities of existing and future residents.

6.3. Planning Authority Response

None.

6.4. Observations

None.

6.5. Further Responses

The third party has responded to the applicant's response as follows:

- Notwithstanding the site is zoned Z1, the houses opposite are zoned Z2. The change in height from two to three storey is too dramatic as is the style

from traditional to very modern. The proposed development is not sympathetic to the scale and design of the existing houses.

- Condition 3 of the parent permission required obscure glazing to bedroom windows. This is poor quality design and is not appropriate for bedrooms.
- The section shows the utility room on the second floor and not the bedroom. The drawings are inaccurate.
- The intention for single occupancy is questioned. To have three en-suites and one family bathroom is a bad use of space and at the expense of the bedrooms.
- One open plan living area is not enough for a four bed dwelling.
- The proposal is overdevelopment of the site with no regard for the scale and design of the Marino estate and will detract and devalue the houses on the other side of the street.

7.0 Assessment

7.1. The proposed development is for modifications to a permitted development of 7 houses (ABP ref PL29N.245431).

Zoning

7.2. The subject site is located within zoning objective Z1, the objective for which is '*to protect, provide and improve residential amenities*'. The plot ratio is stated to be 0.89, which is within the range of 0.5-2.0 set out within the development plan and the site coverage is stated to be 36.5%, which is below the indicative standard of 45%-60% for this Z1 zoned area.

7.3. The third party has raised concerns in relation to the scale, design and massing of the proposed development and its negative impact on the Z2 zoning objective of the dwellings opposite.

7.4. I would highlight that this application is for modifications to the layout and design of a extant permission for a scheme of 3 storey dwellings. The principle of the development, including consideration of its impact on the Z2 zoning objective has already been accepted under ABP ref. PL29N.245431. I consider the development

as proposed to be acceptable in principle and in compliance with the zoning objective for the area.

7.5. I consider that the relevant issues in determining the current appeal before the Board relate to the modifications proposed and are as follows:

- Design & Impact on Amenity
- Car Parking
- Appropriate Assessment

Design and Impact on Amenity

7.6. The third party has queried the design, which is considered unsympathetic and excessive in scale. It is contended that a condition from DCC which requires bedroom 4 to have a window comprising obscure glazing is poor quality in design. The ground floor kitchen/dining area is considered insufficient for a four bed dwelling. The level of storage facilities is considered inadequate. It is contended that the development appears to be designed for multiple occupancy.

7.7. The applicant has responded that the design does not significantly differ from that previously permitted and the proposed amendments are intended to refine, simplify and improve the design, without unduly impacting on the amenities of the area. The development is designed to cater for single occupancy dwellings.

7.8. The modification with the greatest potential to affect the amenity of neighbouring properties, is that involving the addition of an increased floor area at second floor level to accommodate a utility room and a fourth bedroom with en-suite. This level previously comprised a storage area and hallway allowing access to a front and rear terrace. The proposed additional floor area involves the omission of a section of rear terrace, with the front terrace increased in depth. The proposed utility room has no windows on the rear elevation and will comprise an additional depth of 2m to the rear portion of this level. The additional bedroom no 4 in houses 2-8 is approx. 3m deep and is brought out in line with the permitted bedroom 2 (identified as bedroom 3 in the previous permission) at the level below. In my view the increased depth of the floor plan at second floor level, given it is not the full depth of the first and second levels will not significantly impact on the existing massing or visual impact of the

building when viewed from the surrounding area, and there will be no material difference in the view of the dwellings from the opposite side of Fairview Terrace.

- 7.9. I consider further here the issue of potential overlooking from the southern/rear of the scheme. The new bedroom is served by a window to the south and the north. Bedroom 2 which is directly below the proposed bedroom has a window on the south/rear elevation also, approx. 7.5m-8m from the rear boundary, with the depth increasing for the end house, unit 8. The addition of a bedroom to the second floor level is in my view reasonable and the impact in terms of increased overlooking will not be significant, given the lack of directly opposing windows to the rear/south of the site. The permitted scheme allows for a terrace at this level and in my view the potential for noise or overlooking from an additional bedroom is no greater than that which would arise from the permitted terrace.
- 7.10. I note that condition 3 of PL29N.245431 required the rear facing windows serving permitted bedroom number 1 (labelled bedroom 3 in this application), within houses numbered 2, 3 and 4 to be permanently glazed with obscure glass. I note that these bedrooms also comprised a second window of clear glass facing to the side, away from the rear boundary. I note permitted bedroom 1 is closer to the rear boundary than the window to permitted bedroom 3, on the same level, with its clear glazing and is also closer than the new bedroom at second level in this application, hence the condition in relation to obscure glazing. I do not consider a condition requiring obscure glazing to proposed bedroom 4 in any of the dwellings is warranted given the degree of overlooking (as discussed above) is not in my view significant and given the insertion of obscure glazing to the main bedroom window would, in my view, impact negatively on the amenity of future residents. While there is a second window on the north elevation serving this bedroom, the southern window will provide the most benefit to occupants given the layout of the room. Should the Board be minded to grant permission and have outstanding concerns in relation to overlooking, I would suggest that it would be possible to apply a condition to redesign the window serving proposed bedroom 4 in each of the dwellings such that it comprised an angled window or alternative design to minimise any perception of additional overlooking.
- 7.11. Dublin City Council Development Plan 2016-2022 states, under section 16.10.2, that proposals for houses shall comply with Section 5.3: 'Internal Layout and Space

provision' contained in the DEHLG 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007). The floor area of each dwelling is stated to be 173 sqm and the aggregate living area is 49sqm. Overall, the layout and floorspace, as amended, is considered acceptable and exceeds the recommended floor area of 120 sqm for 4 bed, 3 storey dwellings with the aggregate living area of 40sqm for this scale of dwelling also exceeded. The storage requirements are also in my view acceptable.

7.12. Overall the amendments proposed in terms of design and massing at second floor level are in my view acceptable and will not impact negatively on the amenity of the area.

7.13. The additional amendments to the scheme, including the revision to the internal layout, ground level extension, and detailing to boundary of terraces are considered reasonable and will not, in my view, be seriously injurious to the visual or residential amenity of the area or of properties in the vicinity.

Car Parking

7.14. The proposed amendments do not give rise to additional car parking requirements are per the Dublin City Development Plan 2016-2022. The issue of parking was previously assessed under ABP ref PL29N.245431. I do not consider that this matter requires further review based on the limited extent of the development proposed within this application. I furthermore note the site is within 1km of Clontarf DART station, is within walking distance of regular bus routes and is within reasonable walking distance of the city centre.

Other Matters

7.15. The third party raises concerns in relation to devaluation of property in the vicinity. I have no information before me to believe that the proposed development, if permitted, would lead to devaluation of property values in the vicinity. I consider that the works proposed are acceptable and would not detract from the amenities of the area. I consider that the proposal is generally in compliance with relevant Development Plan policies and is consistent with the proper planning and sustainable development of the area.

7.16. The third party raises concerns in relation to the proximity of the development to the footpath and considers the overall scale of the development is not in keeping with

the design and character of the area. The principle of the development in terms of its position on site and overall scale, density and design are matters which have been determined as part of the extant permission PL29N.245431. I have assessed the modifications against the permitted design and find overall the scale and design in keeping with that permitted.

- 7.17. Having regard to the issue of occupancy, the application relates to 7 dwellings and are designed as individual dwellings, with one kitchen/living area per dwelling. Any internal subdivision of the units would require a separate planning application.

Appropriate Assessment

- 7.18. Having regard to the minor nature of the modifications to this 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.

Environmental Impact Assessment

- 7.19. Having regard to the minor nature and scale of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

- 8.1. It is recommended that permission be granted for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2016-2022, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the

amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted on 20/01/2016, planning register reference number PL29N.245431, and of the final grant of permission granted on 29/09/17, planning reference 2355/17, and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of each house, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

5. Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

7. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the

planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Una O'Neill
Senior Planning Inspector

19th September 2018