



An  
Bord  
Pleanála

## Inspector's Report ABP-301878-18

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<b>Development</b>	Demolition of house, construction of house and associated works
<b>Location</b>	Rear of 58, St. Alphonsus Road, with frontage onto St. Brigids Road, Drumcondra, Dublin 9
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2606/18
<b>Applicant(s)</b>	Gary Murtagh
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Gary Murtagh
<b>Observer(s)</b>	Residents of St. Alphonsus Road; Jennifer Geraghty & Alan Rath; Iona & District Residents Association
<b>Date of Site Inspection</b>	24 <sup>th</sup> October 2018
<b>Inspector</b>	Una O'Neill

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## 1.0 Site Location and Description

- 1.1. The application site is located along St. Brigid's Road Upper, to the rear of No. 58 St. Alphonsus Road Upper in Drumcondra, Dublin 9, north of Dublin City Centre. The site, which is in a well-established residential area, previously formed part of the rear garden of No. 58 St. Alphonsus Road, but it was sold and is now a separate parcel of land. There is a laneway along the rear/southern boundary of the site, which serves the rear of the dwellings along St. Alphonsus Road. St. Brigid's Road runs along the eastern boundary of the site. No. 60 St. Alphonsus Road borders the site to its west.
- 1.2. There is a detached single storey structure on the site, which appears to be in residential use and does not have the benefit of a permission for residential use. This building was originally constructed for use as a garage and has been extended along its northern side. There is a vehicular gate entrance to the site off St. Brigid's Road Upper to the east, there is also a roller shutter vehicular entrance door in the southern site boundary off the laneway. There is a gate further west of the site along this lane that restricts access to the remainder of the lane which serves the rear of the residential properties that front onto St. Alphonsus Road Upper.
- 1.3. The application form submitted states the site area as 103 sqm.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the following:
  - Demolition of existing single storey residential unit.
  - Construction of a 2-storey, 2-bed, dwelling with new garden railings and associated site works.
  - The dwelling is 7m wide x 7.2m deep, finished with a flat roof. The overall height of the dwelling is 6.1m. The floor area is stated to be 80sqm.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission REFUSED for the following reason:

It is considered that that the proposed development by reason of its design approach would form a visually incongruous addition to the streetscape and would therefore be contrary to Policy QH22 of the Development Plan 2016-2022 To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise. The proposed development would therefore seriously injure the residential and visual 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 proposed dwelling meets national and development plan standards in relation to internal space standards and private amenity space.
- Section 16.2.1 of the current Development Plan states that 'in the appropriate context, imaginative contemporary architecture is encouraged...' Having regard to the proposed design, size and location of windows and the external finishes, the proposed house it is not considered to be a contemporary design.
- Policy QH22 'To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise' it is considered that the provision of a high quality contemporary house could be acceptable in principle on the site and represent a better design solution than the dwelling currently proposed.

- Having regard to the restricted nature of the site and the availability of on-street parking there is no objection to the provision of no parking.
- Concerns have also been raised regarding the provision of a sewer under the site. It is noted from the Drainage Report on file that there is no objection to the development. It would appear from Dublin City Council's records that there is a combined pipe under the site. As this is in the ownership of Irish Water it is recommended that a letter of consent from Irish Water to develop over the site be submitted with any future application.

### 3.2.2. **Other Technical Reports**

Drainage Division: No objection subject to condition.

### 3.3. **Prescribed Bodies**

No report received from Irish Water.

### 3.4. **Third Party Observations**

A number of observations were received, the contents of which are outlined within the observations to the appeal, summarised hereunder.

## 4.0 **Planning History**

**ABP PL29N.247039** (DCC ref 2961/16): Retention Permission was REFUSED in 2016 for the change of use of existing detached single storey building to a one bedroom with study residential dwelling (55.4 sq.m) and extension.

**R1:** The development for which retention is sought and the proposed development would, by reason of its design, scale and location, constitute an incongruous form of development within the context of the surrounding streets, which would be out of character with the pattern of development in the area and seriously injure the visual amenities of the area and of property in the vicinity. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

**R2:** Having regard to the restricted aspect of the subject dwelling, where the living room is to be served by a high-level window and roof lights only, and

where the study has no window to an external area, and also having regard to the restricted size of the site, it is considered that the development for which retention is sought and the proposed development would provide a substandard quality of residential environment for the occupants and would set an undesirable precedent for similar developments in the vicinity. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

**R3:** On the basis of the submissions made in connection with the planning application and appeal, in particular regarding the existence of a public sewer on the site, the Board is not satisfied that the proposed development would not be prejudicial to public health.

**ABP PL 29N.221498** (DCC ref 5636/06): Permission was REFUSED in 2007 for the change of use of existing detached single storey garage to rear into a one bedroom residential dwelling with proposed extension.

**R1:** The proposed development would, by reason of its design, scale and location, constitute an incongruous form of development within the context of the surrounding streets, which would be out of character with the pattern of development in the area and seriously injure the visual amenities of the area and of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

**R2:** The proposed residential unit would be single aspect, with a substandard and exposed area of private open space. The proposed development would provide a substandard quality of residential environment for future residents and constitute an inappropriate precedent for other developments in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

**R3:** On the basis of the submissions made in connection with the application and appeal, in particular regarding the existence of a public sewer on or in the immediate vicinity of the site, the Board is not satisfied that the proposed development would not be prejudicial to public health.

**4773/05:** Permission was refused for the demolition of a garage and the construction of a two storey 2-bedroom house with balcony at first floor and off street parking. The reason for refusal states: -

**R1:** The proposed development by reason of its back lane location, inadequate back-to-back distance with the main terrace of St. Alphonsus Road Upper and the configuration of the site without a rear amenity space and presenting a two-storey elevation onto the boundary of the rear amenity space of No. 60 St. Alphonsus Road Upper would represent a congested form of substandard residential development severely out of character with the established pattern of development which consists of two-storey dwelling units with front and rear gardens. It is considered that the proposed development would be seriously injurious to the residential amenities of adjacent properties by reason of its overbearing effect, overshadowing and overlooking from first floor balcony and consequent loss of privacy. Thus the proposal would represent an unacceptable form of development, would set an undesirable precedent for other such development in the vicinity, and as such would seriously depreciate the value of property in the vicinity and would therefore be inconsistent with the proper planning and sustainable development of the area.

**E0348/12:** Ongoing Enforcement proceedings regarding property in habitable use without Planning Permission.

## 5.0 Policy Context

### 5.1. 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 16.5,** Plot Ratio: Indicative plot ratio 0.5-2.0 for Z1, with a higher allowance in certain circumstances.

- **Section 16.6**, Site Coverage: Site Coverage- 45-60% for Z1, with a higher allowance in certain circumstances.
- **Section 16.10.2**, Residential Quality Standards, Houses.
- **Section 16.2.2.2** and **16.10.10**, Infill Housing.

The following policies are relevant:

- **Policy QH1:** To have regard to the national guidelines relating to residential development...
- **Policy QH8:** To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.
- **Policy QH21:** To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.
- **Policy QH 22:** To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.

## 5.2. **Natural Heritage Designations**

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

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The grounds of appeal as submitted by the applicant is summarised as follows hereunder:

- Pre-planning consultation was undertaken and the design presented then was largely the same as now proposed. The planning authority had no objection to the design and it was not considered incongruous to the area. A similar design was permitted and referenced by the planner, ref 2821/18. The



preplanning submitted and 3D visuals are attached as an appendix to the grounds of appeal.

- The proposal complies with national guidance and development plan policy specifically with reference to improving densities, provision of infill housing and promotion of sustainable development.
- The existing dwelling has been in residential use since 2004 and will continue in this use, albeit with poorer amenity.
- The development is consistent with the zoning. Overlooking is not a significant issue given the design at first floor level. Overshadowing analysis has been undertaken and this is not a significant issue.
- The dwelling meets all standards in internal sizes and private open space.
- The dwelling will not be out of character with the existing area by way of the use of similar materials through the use of a contemporary design form, which complements the housing stock. The proposal is subordinate to the adjoining terrace of early twentieth century house and in keeping with principal of infill/mews style development.
- The house is in line with that on the site and in line at ground level with the adjacent house 2 St Brigid's Road. The projection at upper floor of 1.2m reflects the bay window detailing of the street in a horizontal rather than vertical emphasis. It does not impact by domination of the whole terrace from any vista.
- Previous works to the footpath were undertaken in accordance with DCC guidelines.
- The public sewer is not under the site.
- The proposal is subordinate in scale, which is appropriate for a mews type infill.
- The planning history of the site and objection to the redevelopment of the site has resulted in this refusal.
- The reason for refusal is subjective and disregards benefits of appropriately redeveloping the site to promote residential densities.

## 6.2. Planning Authority Response

None received.

## 6.3. Observations

Three observations have been received from residents of 58 Alphonsus Road; Iona and District Residents' Association; and a group submission from 10 residents of St Alphonsus Road and St Columbas Road Upper. The submissions are summarised as follows:

- The proposal is a visually incongruous addition to the streetscape and contrary to policy QH22 of the development plan.
- The proposal is inconsistent with the zoning for the area.
- The scale, design and location of the house is out of character with existing dwellings and represents overdevelopment of a restricted site.
- The proposal is in a residential area comprising period properties. The proposed dwelling would be out of character with the pattern of development in the area and would undermine the integrity of this historic area.
- The proposed development undermines this Victorian and Edwardian streetscape.
- The house does not respect the established building line.
- The proposal will result in overlooking and overshadowing.
- The proposal does not form part of an agreed mews scheme.
- The proposal would not result in a high quality or contemporary design.
- Public footpath has been altered with removal of granite kerbing stones to facilitate unauthorised access to the site.
- The width of the laneway is not adequate for a two storey dwelling.
- Figure 27 does not show a correct view of the proposed building. Concern is raised in relation to the exact boundary line and location of services. The boundary lines as shown on the proposed plans are encroaching on the footpath and laneway.

- The proposal is 15m from the rear building line of 58 St Alphonsus Road and 11m from the rear return of 58 and would therefore affect the amenities and privacy of 58.
- Concern is raised in relation to overshadowing of 58 St Alphonsus Road.
- The existing development is subject to enforcement proceedings.
- The proposal would establish an unacceptable precedent and would seriously depreciate the value of property in the area.
- There is a combined sewer under the site. This should be investigated further.
- The applicant has ignored previous planning decisions on this site.

#### 6.4. Further Responses

None.

#### 7.0 Assessment

- 7.1. The applicant proposes to demolish an existing building, which is in use as a dwelling but without the benefit of a permission, and construct a new flat roof, two storey, two-bed dwelling in its place.
- 7.2. The previous permissions refused by An Bord Pleanála (PL29N.247039 from 2016 and PL29N.221498 from 2006) differ from the current permission in that they sought to retain the existing garage structure in residential use and extend it, with high boundaries to be retained, lack of interaction with the public domain, and poor design and amenity standards resulting in an incongruous form of development. A permission was refused in 2005 for a large two storey dwelling (97sqm in area) on the same site, which was of greater scale than the dwelling proposed in this application, with the reasons for refusal including scale and impact on the character of the area, overlooking, overshadowing, overbearance, and lack of private open space.

#### Zoning

- 7.3. The subject site is located within zoning objective Z1, the objective for which is *'to protect, provide and improve residential amenities'*. The provision of residential

development is considered acceptable in principle within the zoning objective for the area.

7.4. The site coverage standard for Z1 zoned lands is 40-60% and the indicative plot ratio is 0.5-2.0. The plot ratio for the proposed development is stated to be 0.8 with a site coverage of 45% and is therefore in accordance with development plan standards.

7.5. The primary issues for assessment include;

- Design and Building Line
- Residential Amenity
- Appropriate Assessment

### **Design and Building Line**

7.6. Concern is raised by observers in relation to the scale, design and location of the house, which is considered out of character with existing dwellings and represents overdevelopment of a restricted site. The observers note the house does not respect the established building line; will result in overlooking and overshadowing; and would overall not result in a high quality or contemporary design.

7.7. The applicant considers the modern form and use of materials will complement the existing housing stock. The proposal is subordinate in scale to the adjoining terrace and the applicant also argues the house is in line with that on the site and in line at ground level with the adjacent house, 2 St. Brigid's Road. The applicant states the projection at upper floor of 1.2m reflects in a horizontal manner the bay window detailing of the street and does not impact by domination of the whole terrace from any vista.

7.8. The proposed two storey dwelling is of a flat roof modern design, with an overall height of 6.1m, which is lower than that of neighbouring dwellings. The materials proposed are red brick, render and a timber cedar cladding. The front of the dwelling is east facing and presents itself onto St. Brigid's Road Upper, with the side elevation to the rear laneway. The upper floor overhangs the ground floor by 1.7m on the St. Brigid's Road Upper side and is stepped 1.2m at first floor level off the rear/western shared boundary with 60 Alphonsus Road. The building line at first floor is approx. 1.2m forward of the building line established by St. Brigid's Road Upper. The ground level windows are vertical in form and the upper level windows are horizontal.

7.9. The principle of a new infill dwelling at this location is accepted and in my view a dwelling could be accommodated on this site. However, the site is restricted in size and while contemporary architecture is supported, I consider the position on site and scale of the dwelling, particularly the scale of the projecting first floor level forward of the established building line of St Brigid's Road Upper would result in an incongruous form of development and would detract from the character of the area and from the existing streetscape. The breaking of the established building line would result in a visually incongruous insertion in the streetscape and while the subject site is not located in an architectural conservation area or a residential conservation area, the subject site is located in an area that displays a uniformity of residential design and character, which the proposed dwelling would detract from. Furthermore the combination of finishes proposed are not in my view reflective of the prevailing external finishes in the immediate area and could have an overbearing effect in design terms.

### **Residential Amenity**

- 7.10. The proposed dwelling meets internal space requirements as per the document 'Quality Housing for Sustainable Communities', 2007 for a two storey three person house and is in compliance with development plan standards in relation to private open space.
- 7.11. With regard to the issue of overlooking, I note the window at first floor level to the rear toward no. 58 serves a bathroom and the window onto the laneway serves a landing/stairs. The building fronts onto St. Brigid's Road, with the bedrooms served by windows on this elevation. I do not consider there to be significant overlooking issues by virtue of the design.
- 7.12. With regard to the issue of overshadowing, I have reviewed the information submitted by the applicant. Having regard to the existing context of the site, the distance between the proposed dwelling and no. 58 and given the proposed dwelling is located in the rear end of the garden adjoining a laneway with garages in a number of the adjoining rear gardens, I do not consider the proposal will give rise to significant overshadowing or impact significantly on the amenities of neighbouring properties.

### **Other Matters**

- 7.13. A number of the observers raise issues in relation to enforcement on the site and the unauthorised nature of the residential use of the building. Matters of enforcement are for the planning authority, outside the remit of An Bord Pleanála. This report concerns itself purely with the proposed development.
- 7.14. The sewer line as submitted on the plans does not run under the dwelling but on the laneway. It is stated by the applicant that there is an accepted error on DCC sewer drawings and that the sewer line does not run under the property. From the information presented I accept that this is the case and in any event the proposal is subject to a connection agreement with Irish Water.
- 7.15. Having regard to the lack of a significant impact on the residential amenities of property in the vicinity, as discussed above, there is no evidence to support the contention that the proposal would affect property values in the area.
- 7.16. The observer has queried the accuracy of the boundary indicated on the drawings. I would draw the Board's attention to Section 34 (13) of the Planning and Development Act, 2000, as amended, which states that a person shall not be entitled solely by reason of a grant of planning permission to carry out development on land where they have no sufficient legal interest.

### **Appropriate Assessment**

- 7.17. 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.

### **Environmental Impact Assessment**

- 7.18. 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 refused.

## 9.0 Reasons and Considerations

Having regard to the prominent location of the site within the streetscape and the breaking of the established building line of St. Brigid's Road Upper at first floor level, it is considered that the proposed dwelling by reason of its position on site, design and scale, would be visually obtrusive and would constitute an incongruous form of development on the streetscape and would, therefore, seriously injure the amenities of the area and of property in the vicinity. The development would be contrary to the proper planning and sustainable development of the area.

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Una O'Neill  
Senior Planning Inspector

31<sup>st</sup> October 2018