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Pleanála

## Inspector's Report ABP 302280-18

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<b>Development</b>	Demolition of house and construct replacement house
<b>Location</b>	3 Millbrook Terrace, Kilmainham, Dublin 8
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3028/18
<b>Applicants</b>	Robert Ardiffe & Louisa Carroll
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	1 <sup>st</sup> Party v. Refuse
<b>Appellants</b>	Robert Ardiffe & Louisa Carroll
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	17/11/18
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Site Location and Description

- 1.1. The site constitutes an end of terrace single storey dwelling within the small cul-de-sac of Millbrook Terrace off Lady Lane which, itself, is accessed from Old Kilmainham Road. The dwelling, which has a stated area of 101 sq.m., is vacant with a block wall delineating the front boundary to the lane. No.2 adjoining is also vacant. The site is bounded by a high block wall topped with fencing to the east with the lands adjoining in commercial use. The site is immediately opposite an undeveloped plot of ground which is in private ownership and used for parking. The Camac River separates the residential area from the old mill and associated lands to the north.
- 1.2. The dwellings along both Lady Lane and the cul-de-sacs off same (Millbrook Terrace and Carrickfoyle Terrace) are predominately single storey, many of which have been extended to the rear and/or into the roof space with dormer windows evident in both front and rear elevations. There are a number of two storey units along the southern side of Carrickfoyle Terrace. The corner site at the junction of Lady Lane and Millbrook Terrace is currently being redeveloped up to two storeys. Due to the narrowness of the lanes parking is very restricted.

## 2.0 Proposed Development

The application was lodged with the planning authority on the 21/08/19.

The proposal entails the demolition of the existing single storey dwelling with a stated floor area of 36.6 sq.m. and its replacement with a 4 storey dwelling with a stated floor area of 118 sq.m. The dwelling is to have a ridge height of 12.8 metres. The fenestration is irregular in terms of spacing and sizing of window openings with balconies proposed to both front and rear elevations. A small rear garden is to be retained.

The application is accompanied by a covering letter which addresses the historic and urban context, design rational, development standards, drainage and consultation had with neighbours.

## 3.0 Planning Authority Decision

### 3.1. Decision

Refuse permission for the above described development for the following reason:

Having regard to scale, height, design, the balconies to the front and rear, the fenestration pattern, the lack of private open space, it is considered that this proposal is totally out of character with the adjoining single storey cottages, would set an undesirable precedent for similar development in the area, would constitute over development of this restricted site, would lead to overshadowing and overlooking to an unacceptable level, would be contrary to Development Plan standards in relation to section 16.10.9 of the Dublin City Development which would seriously injure the residential amenities of surrounding properties 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 Executive Planner's report (countersigned) notes from the planning history in the vicinity that some of the houses have been extended at roof level to provide additional accommodation. It is considered that

- Although the proposal constitutes demolition and rebuild the house should be assessed under the headings set out in section 16.10.0 of the City Development Plan which deals with corner/side garden sites.
- It would be totally out of character with the existing single storey cottages which are characteristic of Lady Lane and Millbrook Terrace.
- The proposed private amenity space falls materially short of the development plan requirement.
- The design does not meet the plan standards in relation to compatibility of design and scale with adjoining dwellings.
- It would result in overshadowing and overlooking of adjoining property.

- It would set an undesirable precedent. The planning authority may take a different view if it was part of a comprehensive redevelopment of a backland site.
- The planning authority would consider proposals to develop the attic and to the rear of the house which is in keeping with the general pattern of development in the area.

A refusal of permission for 1 reason is recommended

### 3.2.2. Other Technical Reports

Drainage Division has no objection subject to conditions.

City Archaeologist recommends conditions should permission be granted including archaeological monitoring.

### 3.3. Prescribed Bodies

None

### 3.4. Third Party Observations

Objections to the proposal received by the planning authority relate to suitability of design and height, impact on character of area, impact on amenities of adjoining properties, impact during construction, congestion and parking on terrace, adequacy of access for construction traffic and undesirable precedent set.

## 4.0 Planning History

I am not aware of any previous planning applications on the site. The planning history for properties in the vicinity are detailed in the Council Planner's report.

## 5.0 Policy Context

### 5.1. Development Plan

The Dublin City Development Plan 2016-2022 refers.

The site is within Zone Z1 the objective for which is to protect, provide and improve residential amenities.

The site is located within a Conservation Area.

Policy CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

The site is within the Zone of Archaeological Constraint for Recorded Monument DU018-202.

Section 16.10 sets out the development management standards for residential development.

## **5.2. Natural Heritage Designations**

None in the vicinity.

## **6.0 The Appeal**

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

The submission by Peter Keenahan Architect on behalf of the 1<sup>st</sup> Party appellants which is accompanied by revised plans and drawings can be summarised as follows:

- The planning authority has used separate standards to assess the proposed development relative to those applied to the 6 storey apartment building on the adjoining site at No. 40 Old Kilmainham Road which was granted permission under ref. 5797/07 (PL29S.229884). The duration of the permission has been extended
- The proposal seeks to reinforce the character of the area not detract from it. Variation in height between adjacent houses is intrinsic to the character of Kilmainham.

- With the exception of No.5 Lady Lane which dates to a 1<sup>st</sup> development of a terrace in this enclave around 1806 and which is little altered, the character of the enclave of Lady Lane, Millbrook Tce and Carrickfoyle Tce has much more to do with the close grain of the district than the quality of the actual structures themselves.
- No.3 is a substandard development. It has very little intrinsic merit either in terms of its construction detail or the accommodation it provides.
- A revised and scaled down proposal is put forward to address the concerns raised. The height is reduced from 4 to 3 stories. Although marginally deeper than that originally proposed it is essentially a rebuilding of the original house on its own footprint and retains a useable patio garden area to the rear. The balconies have been omitted and windows have been placed to minimise overlooking. The floor area has been reduced from 118 sq.m. to 108 sq.m.
- In terms of shortfall of private open space to be rear (now 18 sq.m.) it is contended that the front garden with an area of 27 sq.m. has an amenity value in view of its quiet, end of cul-de-sac location. The area is well served by public open space.
- The proposal would contribute positively to the character of the Lady Lane enclave and would soften what would otherwise be an abrupt transition in scale between the existing cottages and the permitted apartment development adjoining.
- The proposal as revised would not impact to an unreasonable degree on adjoining residential properties.

## 6.2. **Planning Authority Response**

None received.

## 6.3. **Observations**

None received.

#### 6.4. **Section 131 Notice**

Certain prescribed bodies were invited to make a submission on the appeal due to the proximity of the site to a monument. No responses received.

### 7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings.

- Principle of Development
- Suitability of Design and Character of Area
- Other Issues

#### 7.1. **Principle of Development**

The site is within an area zoned Z1 residential in the current Dublin City Development Plan, the objective for which is to protect, provide and improve residential amenities. The demolition of the existing single storey dwelling and its replacement is acceptable in principle in such a zone however due cognisance must be had to the fact that the site is within a Conservation Area wherein it is plan policy to protect the special interest and character of the area and to ensure that development within or affecting the area contributes positively to its character and distinctiveness. Therefore a balance has to be struck between the reasonable protection of amenities and privacy of adjoining dwellings, the protection of the established character of the area and the need to provide for the replacement dwelling.

#### 7.2. **Suitability of Design and Character of Area**

Lady Lane and the cul-de-sacs accessed from it including Millbrook Terrace have a distinct character defined by artisan cottages with a tight urban grain. Many of the dwellings have been extended to the rear and/or into the roof space with dormer windows evident in both front and rear elevations. I also noted a number of two storey units, notably along the southern side of Carrickfoyle Terrace with the said dwellings backing onto Old Kilmainham Road. In addition I note that the corner site at the junction of Millbrook Terrace and Lady Lane is being redeveloped up to two

storeys. I submit that any redevelopment on the appeal site must take due cognisance and aim to complement this prevailing character.

I would suggest that whilst the current development plan management requirements for corner/side gardens set out in Section 16.10.9 as referenced in the planning authority's reason for refusal are not strictly applicable in this instance the principles to which development must seek to adhere to as set out therein are reasonable parameters by which to assess development in this subject case.

Whilst there may be some latitude in terms of height by reason of the appeal site's position at the end of the terrace abutting a high boundary wall, with the use of a modern design solution welcomed, the four storey unit with a ridge height of 12.8 metres as originally proposed is totally out of character with that prevailing in terms of height, scale and design, would be visually discordant, and would detract from the visual amenities and character of the area. Although the immediate area exhibits a tight urban grain where, inevitably, overlooking arises I submit that the proposal would give rise to concerns of undue overlooking both of the dwellings to the north fronting the cul-de-sac and the rear of the properties to the south. In my opinion the revised plans submitted with the appeal, reducing the dwelling to three storeys with an asymmetrical roof profile behind the parapet giving an overall height of 9.95 sq.m., does not negate the concerns as expressed. Whilst there are permitted plans for a 6 storey apartment block on the adjoining lands to the east I consider that the proposal must be first assessed in terms of its impact on the cottages within the cul-de-sac. As stated the impact is unacceptable. I would also have reservations that the proposal would actually provide for a successful gradation in height as submitted by the agent for the applicant.

In view of the existing pattern of development and the absence of any material rear amenity space in the site's current configuration the application of current development plan standards at 10sq.m. per bedspace is not considered reasonable and would effectively preclude any redevelopment of the site. A small patio area to the rear is to be maintained and in the context of that which originally existed is acceptable. No off street parking is or can be provided with the cul-de-sac and Lady Lane so restricted in width that on street parking is largely not possible. The absence of such provision is not considered a material issue in terms of the inner suburban location.



In conclusion I submit that the proposed dwelling would be contrary to the zoning objectives for the area in that it would not protect, provide and improve the residential amenities of the area. It would also detract from the special interest and character of the area and would therefore be contrary to the current City Development Policy for such conservation areas.

### **7.1. Other Issues**

#### Environmental Impact Assessment

Having regard to the nature and scale of the proposed development within a built up serviced area within Dublin City, 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.

#### Appropriate Assessment

Having regard to the nature and scope of the proposed development within a built up, serviced area within Dublin City it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

## **8.0 Recommendation**

I recommend that permission for the above described development be refused for the following reasons and considerations.

## **9.0 Reasons and Considerations**

Having regard to the location of the site at the end of a terrace of single storey dwellings in an area designated as a conservation area in the current Dublin City Development Plan it is considered that the proposed replacement dwelling by reason of its height, scale and design would constitute overdevelopment of the site, would detract from the character and distinctiveness of the area, would seriously injure the residential amenities of property in the vicinity by reason of overlooking and

overshadowing and would set an undesirable precedent. The proposed development would therefore contravene materially the zoning objective for the area and policy CHC4 of the said Development Plan and would be contrary to the proper planning and sustainable development of the area.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**November, 2018**