



An
Bord
Pleanála

Inspector's Report ABP-302328-18.

Development	Amendment permission consequent on the grant of permission (Ref 2799/16). The amendment proposed to the above development consists of modifications to staircore and WC layout on each level. Roof area to the rear at first floor level to receive wall mounted plant & roof level height to be increase.
Location	27-29 Pembroke Street Lower, Dublin 2.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2406/18.
Applicant(s)	Ciaran Reilly.
Type of Application	Permission.
Planning Authority Decision	Refuse permission.
Type of Appeal	First Party.
Appellant(s)	Ciaran Reilly.
Observer(s)	None.
Date of Site Inspection	24 th November, 2018.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located on the eastern side of Pembroke Street Lower in Dublin 2, which is to the east of St. Stephens Green, north of Fitzwilliam Square and south of Merrion Square. Pembroke Street Lower is located perpendicular to Baggot Street Lower and the site the subject of this appeal is located on the corner of Pembroke Street Lower and Pembroke Lane. The area is located within a commercial area within the city and includes a variety of uses such as retail, cafes and offices as well as some residential uses. To the south of the subject site, and south of Pembroke Lane, is the Fitzwilliam Architectural Conservation Area.
- 1.2. The subject site is currently occupied at ground floor level by the Louis Copeland & Sons Gents Outfitter store and Coffee Angel café. The upper floors of the existing building are occupied by offices. The building itself is a three storey, to the front, red brick building with a four storey element to the rear. It is noted from the planning history of the site that the existing building on the site was constructed approximately 25/26 years ago and while located within an historic area of Dublin City, is not a protected structure.

2.0 Proposed Development

- 2.1. Planning permission is sought, to amend a previous grant of permission for the site and is described as follows:

Amendment permission consequent on the grant of permission (Ref 2799/16).
The amendment proposed to the above development consists of modifications to staircore and WC layout on each level. Roof area to the rear at first floor level to receive wall mounted plant & roof level height to be increased at 27-29 Pembroke Street Lower, Dublin 2.
- 2.2. The main alterations to the previously permitted development is the increase in the roof level height from a permitted level of +32.350m to +33.040m. This equates to an increase of 690mm above that already permitted.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for the proposed amendments for the following reason:

1. The proposed roof level extension by reason of its height and scale would constitute a visually obtrusive form to the roofline of this building which is located within a Conservation Area and adjacent to the Fitzwilliam Square and Environs ACA, impacting negatively on the setting of this historic streetscape. The proposal would therefore be contrary to Policy CHC4 of the Dublin City Development Plan which aims to protect the special interest and character of all Dublin's Conservation Areas 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 Officers report formed the basis of the Planning Authority's decision to refuse planning permission. The initial report sought further information in the form of a Visual Impact Assessment and clarification as to the need for the additional height. It was requested that consideration be given to a reduction in the height of the overall area.

Following receipt of the response to the FI request, the Planning Officers report noted that the increase in the height is required to facilitate a lift overrun of 3850mm from the last landing level (fifth floor) to the underside of the lift shaft slab. The architects consider that a uniform raise of the parapet levels results in a better solution to the streetscape than a localised raise only affecting the lift shaft. The Planning Officer disagreed and considered that the additional height presents as top heavy and will have a negative visual impact on the streetscape and adjacent ACA when viewed from Baggot Street. The report concludes that the FI response has not satisfactorily addressed the initial concerns and recommends refusal for all aspects of the proposed development.

3.2.2. Other Technical Reports:

Drainage Division: No objection.

3.2.3. Prescribed Bodies:

Transport Infrastructure Ireland: No objection.

3.2.4. Third Parties:

None.

4.0 Planning History

The following is the relevant planning history pertaining to the site:

PA ref 2799/16: Permission granted subject to conditions for a development consisting of 1. A rooftop extension of the existing building, to add an aggregate extra 2 levels to the existing 4 storey building, 2. The removal of the existing penthouse level mansard-roof office accommodation and re-provision of three levels of new office accommodation. The top level of proposed office accommodation is to be provided in a setback penthouse with an external roof terrace, 3. The rear extension on all levels of the office building to provide an enlarged office floorplate, 4. The recladding of all external facades in new brick, 5. The redesign of ground level retail frontages and 6. The Gross Internal Area of the existing building (excluding basement) is 588 sq.m. The Gross Internal Area of the proposed development (excluding basement) is 972 sq.m, a proposed floor area increase of 384 sq.m.

5.0 Policy Context

5.1. Development Plan

The Dublin City Development Plan, 2016-2022 is the relevant policy document relating to the subject site.

The site is located within a district centre which is zoned Z4. It is the stated objective of this zoning 'to provide for and improve mixed services facilities.'

Chapter 4 of the Plan deals with Shape and Structure of the City and Section 4.5.4, deals with Taller Buildings as part of the Urban Form and Spatial Structure of Dublin. Of note in this regard is Section 4.5.4.1 which deals with taller buildings including within conservation areas within the historic core of the city.

The site is also located within a Conservation Area and chapter 11 of the Plan deals with Built Heritage and Culture. Section 11.1.5.4 deals with Architectural Conservation Areas and Conservation Areas and Policy CHC4 is relevant. Section 11.1.5.7 deals with

Chapter 16 of the Plan deals with Development Standards and Section 16.7 deals with Building Heights in a Sustainable City, and Section 16.7.2, which relates to height limits and areas for Low-rise, Mid-rise and Taller Development, notes that 'Plant, flues and lift overruns should not be included in the height of the building, as long as they are set back and properly screened and do not significantly add to the shadowing or otherwise of natural light beyond that of the main structure'.

Full details of the relevant sections of the City Development Plan are provide as an appendix to this report.

5.2. Natural Heritage Designations

The site is not located within or adjacent to any Natura 2000 site. The closest designated sites are the South Dublin Bay SAC, Site Code 000210, and the South Dublin Bay and River Tolka Estuary SPA, Site Code 004024, which are located within approximately 3km of the site.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal against the decision of the Planning Authority to refuse permission. The grounds of appeal are summarised as follows:

- The need for the increased lift height is to ensure compliance with the relevant code for lift installations, which came into effect after the design of the parent permitted development in 2016.

- There were two options available to deal with the issue of the 690mm as follows:
 - Locally raise the roof at the lift over-run, thereby breaking the parapet line to the detriment of the overall building design and quality of the building in the wider Architectural Conservation Area (Visualisation A, Appendix 1).
 - Uniformly raise the parapet line to accommodate the additional lift over-run height, thereby offering a seamless and regular parapet line, in accordance with the original design intent and to the overall visual acceptability of the design proposal (Visualisation B, Appendix 1).
- In selecting option B, it was determined that the amendment would be perceived only slightly and no harm to the ACA would be caused.
- The overall height of the amendment remains lower than the neighbouring Hambledon House.
- The amendment is not proposed as a means to achieve additional building area or revenue.
- The planners report makes a flawed statement in that its 'central positioning within the site it is considered that a localised height increase only would have been more appropriate'.
- It is also requested that the Board approve the other matters of the amendment application which are unrelated to the matter of the parapet height increase.

It is requested that the Board overturn the decision of the local authority and refuse permission.

6.2. Planning Authority Response

None

6.3. Observations

None.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Visual Amenity issues and impacts on ACA
2. Other Issues
3. Appropriate Assessment
4. Environmental Impact Assessment

7.1. Visual Amenity Issues & Impacts on ACA:

7.1.1. The proposed development essentially seeks four amendments to a previously permitted development at the site. The main proposed amendment which has given rise to concern, and subsequent refusal, by the Planning Authority, relates to the proposal to increase the roof level of the building by 690mm. The Planning Officer considered that a localised increase in order to accommodate the lift shaft overrun would have sufficed rather than the full increase as sought by the applicant.

7.1.2. The Board will note that the Planning Officer was not provided with a visual representation of both options in response to the further information request. As part of the first party appeal, a visualisation of both options is submitted. While I would acknowledge the concerns of the Planning Authority in terms of the potential visual impact, having regard to the permitted development on the site, which will result in an increase of existing building height from approximately 11.5m to 19.3m, an increase of 7.8m, I would consider that the proposed additional 0.69m will be imperceptible at that height, and in that context.

7.1.3. I have also had the benefit of the visualisation submission with the appeal, which seeks to depict both possible scenarios. In this regard, I would agree with the appellant and consider that the development as proposed would be more acceptable in terms of visual impact. I am generally satisfied that the development, if permitted,

will not so significantly add to the visual impact of the development from that already permitted under PA ref 2799/16.

7.2. Other Issues:

The Board will note that the first party appellant has requested that the other elements of the amended development proposal be considered and approved.

These include as follows:

1. Internal modifications to the staircore and WC layout on each level.

The proposed modifications are all internal and have no visual implications to the exterior of the building as permitted. I have no objection to these proposed modifications.

2. The plant room at first floor level is to be removed and two additional windows to be provided in its place.

It is proposed to relocate the previously permitted plant room from the first floor level of the building. Access to this plant room was to be provided at the Pembroke Lane elevation and it is now proposed to inset two windows instead. I have no objection to this element of the proposed modifications.

3. The roof area to the rear at first floor level to receive wall mounted plant.

In removing the first floor plant room, it is now proposed to locate the necessary plant at the roof level. The area proposed, as part of the current appeal, to accommodate the plant room, was previously contained within fire escape stairs area on the fifth floor level. The proposal has no real implications in terms of previously permitted visual impact and therefore, I have no objection to this element of the proposed modifications.

7.3. Appropriate Assessment

The site is not located within or adjacent to any Natura 2000 site. The closest designated sites are the South Dublin Bay SAC, Site Code 000210, and the South Dublin Bay and River Tolka Estuary SPA, Site Code 004024, which are located within approximately 3km of the site.

Having regard to the location of the subject site, together with the nature and scale of the proposed development on zoned lands, I am satisfied that there is no potential for impact on any Natura 2000 site, warranting AA.

7.4. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development, 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

It is recommended that planning permission be granted for the proposed development for the following reasons and considerations and subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2016-202, the planning history of the site and the minimal nature of the modifications sought, the pattern of development in the area and the information submitted in relation to the proposed development, the Board is satisfied that, subject to compliance with the following conditions, the proposed development would not seriously injure the visual amenity or the character and residential amenities of the area or the Architectural Conservation Area and 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 application 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. All relevant conditions attached to the previous grant of planning permission for the development on site, Dublin City Council Reference 2799/16 refers, shall be strictly adhered to.

Reason: In the interests of clarity and the proper planning and sustainable development of the area.

A. Considine

Planning Inspector

25th November, 2018