



An
Bord
Pleanála

Inspector's Report ABP 302573-18

Development	Extension to student accommodation.
Location	The Concorde Lounge, Edenmore Shopping Centre, Raheny. Dublin 5.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3392/18.
Applicant(s)	Brendan Walsh.
Type of Application	Permission.
Planning Authority Decision	To Refuse Permission.
Type of Appeal	First Party.
Appellant(s)	Brendan Walsh.
Observer(s)	Claudia Fragnoli.
Date of Site Inspection	November 22 nd , 2018
Inspector	Breda Gannon.

1.0 Site Location and Description

- 1.1. The site is located at Edenmore Shopping Centre, Raheny. Dublin 5. The shopping centre is located to the northeast of the city centre between Tonlague Road to the north and Woodbine Road to the south. It provides a wide range of facilities and services for the surrounding district including a supermarket, shops, post office, public house, health centre, takeaway, newsagent etc. The shopping centre occupies an area of ground that is surrounded by Edenmore Avenue to the north and west, by Edenmore View to the east and Edenmore Park to the south. There are 2 no. national schools and an infant school opposite the site and with the exception of sports/recreational uses, the surrounding area is primarily residential.
- 1.2. The appeal site is located at the eastern end of the shopping centre. It occupies a corner position at the junction of Edenmore Park and Edenmore View. It accommodates a three-storey building which contains The Concorde public house and retail units on the ground floor with two floors of residential accommodation above. The building has a U shape configuration with a west facing courtyard at first floor level. The external finish includes a mix of red brick and render. The north, south and east elevations address the streetscape and the rear of the building faces towards a car park and the rear of existing buildings.

2.0 Proposed Development

- 2.1. The proposal is to provide an additional floor (649m²) to the existing building, extending to four floors with an overall height of 13.9m. The new floor would have the same footprint as the two floors beneath and would provide 8 no. additional student accommodation units with a total of 23 no bedspaces.
- 2.2. The proposal includes a new communal open space area, in the form of a 97m² roof terrace at first floor level. It would be located above the existing flat roof associated with the bin storage area on the northern elevation. The area would be accessed off the northern most stairwell. The roof terrace would be enclosed by railings. The proposal would result in a plot ratio of 2.8 and site coverage of 90%.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse planning permission for the development for 2 no. reasons.

1. The development contravenes the policies of the plan, in particular policy QH31, in that the development of student accommodation at this location is not close to any third level institution and does not have any suitable transport links to any third level institution.
2. The applicant has failed to demonstrate compliance with the minimum requirements for student accommodation as set out under Section 16.10.7 of the Plan.

4.0 Planning Authority Reports

4.1.1. Planning Reports

The **Planning Officer's** report of 20/8/18 states that there is significant concern regarding the viability and suitability of the proposal due to its location and the provisions of policy QH31. The development is not on campus, close to a main campus, in the inner city or adjacent to high quality transport corridors or cycle routes. The site is 5.7km from Marino Institute of Education, 6.5km from DCU and 1.4 km (18 minute walk) from Raheny DART station. Colaiste Dhulaigh College of Further Education is located an 11 minute walk away. It has additional campuses at Kilbarrick and Coolock. The Raheny site provides post leaving cert courses and adult education courses to approximately 200-300 students, primarily catering to a local catchment.

- 4.1.2. Having regard to the size of the existing and proposed development, and the apparent condition of the existing development, there is concerns that the nature, size and scale of the student accommodation does not reflect *'high-quality, professionally managed, purpose built third level student accommodation'* and as such is not in accordance with the provisions of the development plan or the proper planning and sustainable development of the area. The original proposal included

two caretakers apartments and the exterior appearance of the building is not what one would associate with the presence of two resident caretakers.

- 4.1.3. Section 16.10.7 sets out the standards for student accommodation. Two of the proposed apartments are more similar to one-bedroom apartments, with a floor area of 45m² and a bedroom floor area of 11.4 m² which is not in compliance with these standards. There has been no assessment of the impacts of the new extension on the existing apartments facing the courtyard, or the courtyard itself, in terms of daylight/sunlight and overshadowing. The proposed additional communal open space to the north-west elevation would be overshadowed for most of the day.
- 4.1.4. With regard to the protection of the amenity of adjacent properties, the provision of a well managed, well screened first floor communal open space to the north would not cause undue overlooking or lack of privacy to neighbouring properties outside of the block due to the orientation of the buildings and the distance between them.
- 4.1.5. No details were submitted with the application detailing how the scheme would be professionally managed or how it would support integration with the local community through its design and layout.
- 4.1.6. The proposed four-storey building would be significantly higher than the prevailing heights in the area and the scale and bulk of the building is reflected in its plot ratio (2.8) and site coverage (90%). No details of car parking have been provided. The site is located within Parking Zone 3 where the requirement is 1 space per 10 bed spaces. The low level of parking provisions for student residences is predicated on its location on/adjacent to third level campuses or adjacent to quality public transport corridors and cycle routes.

4.2. **Other Technical Reports**

The **Drainage Division** in their report of 25/7/18 raise no objection to the development subject to standard type conditions.

5.0 **Prescribed Bodies**

None.

6.0 Third Party Observations

Two observations (one signed by a significant number of signatures) were received by the planning authority raising similar issues to those raised in the observation to the Board.

7.0 Planning History

6244/04 – Planning permission refused by Dublin City Council on 23/2/05 on this site for the construction of a two-storey extension over the existing public house to provide student accommodation on the grounds that the proposed accommodation over a public house would impact on residential amenity and that the need for student accommodation in the area had not been demonstrated. Other issues raised related to the design, lack of open space, parking etc. The decision was overturned by the Board (PL29N. 211427).

8.0 Policy Context

The **National Student Accommodation Strategy** was published by the Department of Education and Skills in 2017. It states that the significant increase in demand for higher education places is projected to continue beyond the mid-2020's. The increase in student numbers is creating an unprecedented demand for suitable, affordable student accommodation, which is impacting on the private rental sector. The strategy is designed to ensure that there is an increased level of supply of purpose built accommodation for students. However, it recognises that it is not possible or practical to develop all student accommodation on campus to meet student demand and that it is vital that relevant stakeholders work together to increase supply going forward.

8.1. Development Plan

The site is located in an area zoned Z4 – District Centres with an objective '*To provide for and improve mixed service facilities*'.

District centres provide a far higher level of services than neighbourhood centres. To maintain their role as district centre, new development should enhance their

attractiveness and safety for pedestrians and a diversity of uses should be promoted to maintain their vitality throughout the day and evening. In this regard, opportunity should be taken to use the levels above ground level for additional commercial/retail/services or residential use with appropriate social facilities.

Residential uses are permissible with this use zone.

Relevant policy includes;

Policy QH31 – To support the provision of high-quality, professionally managed and purpose built third-level student accommodation on campuses or in appropriate locations close to main campus, in the inner city or adjacent to high quality public transport corridors and cycle routes, in a manner which respects the residential amenity and character of the surrounding area, in order to support the knowledge economy. Proposals for student accommodation shall comply with the ‘Guidelines for Student Accommodation’ contained in the development standards.

The ‘*Guidelines for Student Accommodation*’ are set out in Section 16.10.7 of the Plan.

8.2. Natural Heritage Designations

None.

9.0 The Appeal

Grounds of Appeal

The grounds of appeal may be summarised as follows.

- The Board has accepted the principle of student accommodation on this site (PL29N.211427). The Board is requested to consider the application as submitted in the first instance to Dublin City Council. However, an alternative design option has been prepared to address the second reason for refusal. This design option is illustrated in Architectural Drawing No 2003-04-ABP-100 (Appendix B). A Student Management Plan is also included with the submission to address refusal reason No 2. It is contained in Appendix C.

- Policy at national, regional and local level recognises the need for additional student accommodation to meet demand and reduce pressure on the private rental sector.
- The planning authority has formed an overly restrictive view on what constitutes a third level institution and a conservative view on what constitutes a reasonable travel distance. Both the development plan and national planning policy guidance encourages the provision of student accommodation in accessible locations, proximate to third level institutes. The appeal site satisfies these criteria. Table 1.0 identifies 12 no. third level institutes within a 45 minute commuting distance (on foot or by public transport) of the subject site, which is considered a reasonable commuting time for students. There are a number of additional third level institutes that are within 35 minutes commuting distance by car including Institute of Technology, Blanchardstown and DIT Grangegorman Campus. Having regard to the foregoing, it is considered that the proposal accords with Policy QH31.
- Refusing the proposal contradicts the previous decision by An Bord Pleanála (PL 29N.211427).
- The absence of a Student Management Plan for the current application and the absence of an endorsed Student Management Plan for the units previously granted forms part of the second reason for refusal. The planning authority could have sought the plan by way of further information and no enforcement action was taken in respect of the applicant's failure to submit the management plan as required under the previous permission.
- Dublin City Council has chosen to refuse permission due to past failures and has acted contrary to section 35 of the Planning and Development Act, 2000, as amended, in failing to provide the applicant with an opportunity to make a submission in this regard. The planning authority has therefore acted contrary to the provisions of section 35 and this aspect of the refusal reason is an inappropriate inclusion.
- Irrespective of the above a Student Management Plan is included and is considered to satisfy development plan guidance.

- The second reason for refusal refers to non-compliance with the development plan guidelines, specifically internal standards and the impacts of the proposed extension on the existing habitable rooms and open space due to its orientation.
- The issues regarding internal standards is centred on the size of two of the 8 student units proposed (Units 18 and 23). While the double bedrooms proposed in these units falls short of 11.4m² they are considered to offer an appropriate degree of amenity to future occupants. The size and width of the bedrooms complies with the minimum bedroom floor area/widths specified for double bedrooms in the *'Sustainable Urban Housing: Design Standards for New Apartments : Guidelines for Planning Authorities'* (2018). The planning authority's refusal of the proposal due to the fact that units 18 and 23 exceed the maximum floor area outlined in Section 16.10.7 of the Plan represents an inflexible application of the Guidelines for Student Accommodation.
- Should the Board form the view that the proposed units are inappropriate, the proposed development is capable of accommodating an alternative third floor layout as illustrated in the revised drawing (DWG No 2003-04-ABP-100). The revised third floor involves an amalgamation of Units 17 & 18 and Units 23 & 24 to create two larger cluster units comprising 7 bedspaces, which comply with the internal standards included in the Guidelines for Student Accommodation in section 16.10.7 of the Plan. The provision of this alternative solution is capable of being addressed by way of condition.
- Issues surrounding the orientation of the proposed development and the potential for impacts on daylight and overshadowing of the courtyard are also raised in the second reason for refusal. The proposal is for an extension of an existing development. It includes a west facing open space area and there is no scope for the applicant to alter the position of this space. Notwithstanding this, the positioning of the existing open space is appropriate. It is positioned centrally in the site and removed from adjacent streets and shopping. Some of the existing/proposed units are also provided with balconies.
- The residential amenity afforded to future residents by this open space was previously deemed appropriate by An Bord Pleanála.

- The existing apartments facing the courtyard and the courtyard itself will continue to receive an appropriate level of sunlight. The proposed development will add a new floor to the building and will match the footprint of the existing building. It results in a minimal increase in building height from 2.4m to 3.79m.
- The increase in height will have a minimal impact of the daylight received and overshadowing due to its orientation and the large size and generous width of the courtyard and is located at first floor level which improves the level of daylight received.
- The current proposal seeks to improve the level of amenity afforded to residents of the scheme through the provision of an additional private open space area in the form of a 97m² roof terrace off the existing first floor atrium on top of the existing flat roof associated with the bin storage.
- The proposal is acceptable, particularly in light of the previous decision by the Board and is compliant with the zoning objectives, policies and objectives of the development plan as well as regional and national policies. The proposal will provide a high level of residential amenity for future residents while preserving/improving existing residential amenities and does not detract from the character of the Edenmore Park streetscape or restrict the development potential of lands immediately west.

9.1. **Planning Authority Response**

No response to the grounds of appeal were submitted by the planning authority.

9.2. **Observations**

1. Claudia Fragnoli

Operates the adjoining take-away restaurant which has family accommodation overhead.

The main issues raised relate to the following;

- Disputes the distances from third level institutions and it is stretching a point to suggest that the site is 'in close proximity'.

- Non-compliance with conditions of the original permission (Conditions 2 (c), 4 & 5. Windows are not triple glazed as required by Condition No 2 (c). The building is let to tenants and is not used as student accommodation in contravention of Condition No 4. In effect this has generated housing accommodation which is substandard with respect to development plan standards regarding internal space standards, open space and parking. It is difficult to justify the requirement for additional student accommodation when the existing units are not used for that purpose.
- The applicants have failed to provide a management scheme in compliance with Condition No 5. On this basis the development as existing and that proposed cannot be considered as high-quality purpose built and professionally managed student accommodation.
- The Board is not constrained in a similar manner as the local authority by Section 35 of the Planning and Development Act, 2000. The existing use pattern and compliance with the previously granted permission is a core issue and is material to determining the future development of the site. The Board should fully consider the operation of the existing units and the applicants disregard for the original conditions in determining their decision.
- The existing balconies and courtyard roof area are within 10m of observer's bedroom windows resulting in overlooking, overshadowing and noise. These impacts will increase with any further development of the site. The drawings do not clearly indicate the adjoining first floor residential unit and distances between habitable rooms to enable this impact to be assessed. The provision of an additional floor to the building will effectively remove the free sky area to the bedrooms with a significant reduction in daylight levels.
- Parking requirements for student accommodation are limited under the provisions of the development plan. The proposal will result in 90% site coverage, with no parking provided. The open parking area to the west of the proposed development is in separate private ownership.
- The applicant has provided no evidence to suggest a demand for additional student accommodation evidenced by the management of the existing units.

No evidence has been provided to demonstrate that the existing accommodation is let as student accommodation.

- Little information is provided with respect to open space provision. There is no difference between existing and proposed plans in this respect. Given the proximity to observer's property, visual and acoustic screening should be provided between the terrace and the apartment by means of a 2m high wall. Visual and acoustic screening should be provided to new and existing balconies.
- The applicants have not provided any calculations to support their argument that the proposed development will not impact on existing daylight/sunlight to the courtyard and the apartments fronting it.
- The increase in height to four storeys will impact on the character and form of the Edenmore Park streetscape which is primarily two-storey.
- The applicants have offered no evidence to suggest a demand for student accommodation evidenced by the management of the existing units. Nor have they demonstrated the ability to provide the management structures required to manage a high quality student accommodation development.

10.0 Assessment

The main issues that arise for determination by the Board in respect to this appeal relates to the following;

- The principle of the development.
- The use of the existing/proposed apartments.
- The standard of accommodation provided for existing/future occupants.
- Impacts on the residential and visual amenities of the area.

10.1. Principle of the development

It is well documented at national, regional and local policy level that there is a disconnect between demand and supply of purpose built student accommodation in the city, which is exerting pressure on an already strained private rental sector. The

proposal, which is to provide an additional floor onto an existing complex is, therefore, acceptable in principle.

While I share the concerns articulated in the planning officer's report regarding the remoteness from third level campuses, accessibility to quality transport corridors and cycle routes, the principle of student accommodation at this location is established by the parent permission (PL 29N.211427).

10.2. Use of existing/proposed apartments

While the observer states that the building is not occupied by students, I am not in any position to speculate on the nature of its occupants. I did not gain access to the building, but I accept as stated by the planning authority, that externally the appearance of the apartment block is not consistent with a scheme that is professionally managed as required under the student accommodation guidelines and Condition No. 5 of the parent permission. I also accept that it would not have been difficult for the applicant to provide confirmation that its occupants are students registered with third level colleges to alleviate the concerns raised in this regard.

Condition No 4 of the parent permission required that the development be used solely as student accommodation. Any issues regarding the unauthorised use of the building for any other purpose other than student accommodation is a matter for the planning authority and the Bord has no role in this regard. However, the type of tenancy is of significance in terms of the assessment of the standard of accommodation provided. Should the Board be minded to grant permission for the development, I recommend that a condition be attached regulating the use of the development to student accommodation only.

The planning authority in its second reason for refusal referred to Section 16.10.7 of the Plan. It requires student accommodation to generally be provided by grouping study bedrooms in 'house' units with a minimum of 3 bed spaces. Two of the units (No 18 and 23) are provided with 2 bed spaces and with a bedroom floor areas that are below the minimum requirement of 15m². The First Party makes the case that the overall space requirements are acceptable having regard to the occupancy and

generous kitchen/living areas, but have submitted proposal to amalgamate Units 17 & 18 and Units 22 & 23, in the event that the Board considers the units inappropriate (Dwg No. 2003-04-ABP-100).

I accept that the planning authority's view that Unit 18 & 23 are more similar to a standard one bedroom apartment than student accommodation. Should the Board be minded to grant permission for the development, I recommend that a condition be attached requiring that the units be amalgamated as per revised drawing.

10.3. **Standard of accommodation provided for existing/future residents**

The floor area parameters set out in the *Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities* (DHPLG, March 2018) do not apply to student accommodation. While I note that the floor area of the apartments and the widths of the rooms have been reduced from that approved in the parent permission, the floor areas exceed the requirements for student accommodation set out in the development plan (Section 16.10.7). All of the apartments have access to small balconies and communal open space is provided in a courtyard (c 160m²). As part of the new build, it is proposed to provide an additional area of communal open space (97m²) at first floor level over an existing single storey store on the north elevation.

While I accept that a generally good standard of accommodation is provided for students, which exceeds development plan standards, I have concerns regarding the quality of the open space provided. The courtyard is enclosed on three sides (north, south and east) and is significantly overshadowed particularly in the mornings, which would increase with the addition of a fourth floor. The location of the new communal area to the north side of the building would also result in a poor quality space. While this may not be a particular issue for students, it would be less than optimal should the building be converted from student accommodation at some future date as supply increases in more suitable areas.

10.4. **Impacts on the residential and visual amenities of the area**

The observer resides in a building to the west of the appeal site. The building is two-storey with a single-storey flat roof structure to the rear. The buildings result in almost complete site coverage, with no private amenity space. It contains a side

window at first floor level (stated to serve a bedroom) which addresses the narrow laneway separating the two properties. Whilst there are no directly opposing windows in the gable of the existing/proposed building that would result in overlooking considerations with impacts on privacy, there are balconies located in close proximity. However, the provision of an additional floor would not increase the level of overlooking over and above that generated by the existing building due to the differences in level.

The window is already impacted by to further impacts on the level of sunlight received. The remaining windows at first floor overshadowing from the existing development particularly in the mornings. An increase in the height of the building is likely to further impact on the level of sunlight/daylight received. The remaining window to the property at first floor level are orientated north looking out over the car park to the rear and will not be impacted by the proposed development.

Issues have been raised regarding the appropriateness of a four-storey building in an area where the prevailing height is two-storey. The provision of an additional floor onto the existing building would result in an overall height of 13.9m, an increase of 2.4m on the existing. The Board will note that under the provisions of the recently published '*Urban Development & Building Heights-Guidelines for Planning Authorities*' (DHPLG, 2018), it is Government policy that building heights must generally be increased in appropriate urban locations to consolidate existing urban area and tackle urban sprawl. The guidelines require that '*the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels*'.

There is, therefore, a presumption in favour of increased building height in appropriate locations in towns/cities and other urban locations with good public transport accessibility. In terms of development management, the guidelines acknowledge that in achieving increased building heights a balance needs to be achieved between enabling development and ensuring the highest standard of urban design, architectural design and place making are attained. Section 3.2 of the guidelines sets out a number criteria at the scale of district/neighbourhood/street which in terms of the existing site context includes a requirement that the proposal

responds and makes a positive contribution to the urban neighbourhood and streetscape and integrates in a cohesive manner. At a site/building level the emphasis is on maximising access to natural daylight, and minimising overshadowing and loss of light.

As noted in the planning officer's report the site is not proximate to high quality public transport corridors or cycle routes. Raheny DART station is c 1.4km from the site and Route 27a, which runs every 25 minutes does not provide a high frequency service. The buses on Route 17a, runs every 15-20 minutes. The site could not therefore be considered to satisfy the criteria regarding proximity to high quality transport corridors.

I am not persuaded that the increase in building height proposed achieves the high quality outcomes anticipated by the guidelines. I consider that the increase in height proposed will result in a deterioration in the quality of the existing open space, which in addition to the substandard quality of the proposed new space will result in a substandard level of amenity to existing and future occupants of the development.

11.0 Appropriate Assessment

11.1. Having regard to the location of the development within a serviced built up area, the nature of the development and the separation distance from Natura 2000 sites, I consider that the proposed development either alone, or, in combination with other plans or projects, would not be likely to have significant effects on a European site, in view of the sites' conservation objectives and that, therefore, a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not required.

12.0 EIA Screening

12.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

13.0 Recommendation

Having considered the contents of the planning application, the decision of the planning authority, the provisions of the development plan, the grounds of appeal and the responses thereto, my inspection of the site and my assessment of the planning issues, I recommend that permission be refused for the development for the reasons and considerations set out below.

14.0 Reasons and Considerations

It is considered that the proposed development which would result in an increase in height of the existing building would result in an increased level of overshadowing of the existing communal open space, which when taken in conjunction with the poor quality of open space proposed as part of the scheme, would result in a poor level of residential amenity for existing and future occupants of the development. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

Breda Gannon
Planning Inspector

9th January, 2019