



An
Bord
Pleanála

Inspector's Report ABP 302663-18

Development	Addition of a 4 th storey two-bedroom penthouse apartments with balcony. Works will also comprise of upgrade works to the existing building
Location	Trinity House, Church Avenue & Church Gardens, Dublin 6
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2592/18
Applicant(s)	Frank & Maeve O'Dea
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	Belgrave Residents Association
Observer(s)	None
Date of Site Inspection	25 th January 2019
Inspector	Irené McCormack

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1.0 Site Location and Description

- 1.1. The appeal site is located to the south of Rathmines on Church Avenue, an east/west route which connects Palmerston Road and Rathmines Road Upper (R820). The site lies on the north-eastern side of the junction of Church Gardens and Church Avenue. The focal point of Church Avenue is Holy Trinity Church, which lies in an island site towards the mid-point of the Avenue. The area is residential in character and the site is adjoined on the eastern side by a terrace of two-storey over basement Victorian houses that are protected structures (ref. 1521-1524).
- 1.2. The existing apartment block consists of 6 apartments over three floors. Car parking is provided to the front of the site.

2.0 Proposed Development

- 2.1. The development will comprise:
 - a 4th storey two-bedroom penthouse apartments with balcony
 - the addition of balconies to three existing units
 - the replacement of all existing windows with aluminium framed double-glazed windows
 - rendering works to the front façade of the subject building
 - the re-configuration of the car parking to the front of the site to accommodate a total of 5 car parking spaces.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was granted for the development subject to eight conditions, the following of which are of note:

C2. Section 48 General Development Contribution

C3. Cash Deposit or Bond

C4. A Parking Management Plan

3.2. Planning Authority Reports

3.2.1. Planning Report

The Planning Officer's reports notes the zoning provisions of the area and that the principle of the proposed residential development is acceptable. In relation to design, height and car parking the reports notes the following:

- The overall design approach is considered acceptable and the proposal would not result in undue overshadowing and overlooking. It is noted that the proposal would not have an overbearing impact on the adjoining Protected Structures to the east or the residential properties to the north. The proposed corner piece design is considered an acceptable addition and the design provides additional residential amenity to the existing apartments.
- It is considered that the proposed development in terms of floor areas, privacy, aspect, natural light and ventilation and private open space would be in accordance with Development Plan standards and the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, March 2018.
- The response to the further information notes the alteration to the location of the vehicular entrance is acceptable in terms of traffic movements and impact on residential amenity and that car parking on site would be fully accessible.

3.2.2. Other Technical Reports

The Roads & Traffic Planning Division in their report of 9th May 2018 requested further information be sought in relation to accessible car parking on the site and details in relation to how car parking will be assigned and managed. The response to the further information request was deemed acceptable by the Roads & Traffic Planning Division subject to standard conditions as set out in report dated 13th August 2018.

4.0 Planning History

4.1. Site

I am not aware of any recent planning applications relating to the subject site.

4.2. Surrounding

ABP PL 29S.248307 (DCC Ref. 2015/17) – Planning permission granted for the demolition of shed and construction of a two and a half storey two-bedroom dwelling comprising an area of 119 square metres at No. 6A, Church Gardens.

ABP PL. 29S. 245849 (DCC Ref. 3766/14) – Planning permission granted for the construction of 16 no. residential units at the corner of Church Avenue and Church Gardens and lands to the rear of No 44- 54 Upper Rathmines Road (all Protected Structures).

ABP PL.29S.237026 (DCC Ref. 2382/10) – Planning permission granted for the change of use of commercial to residential of the yard to the rear of No 6 Church Gardens and the construction of a single storey house with access from Church Gardens through the archway of No.6.

5.0 Policy Context

5.1. Development Plan

5.1.1. Dublin City Council Development Pan 2016-2022.

The site is located in an area zoned Z2 -Residential Neighbourhoods (Conservation Areas) with the following objective; *'To protect and/or improve the amenities of residential conservation areas.'*

Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- Policy SC25 – To promote high standards of design
- Policy QH18 – To promote the provision of high-quality apartments
- Section 16.2.1 Design Principles

- Section 16.7.2 of the Development Plan includes height limits for development, including a 16m restriction in the outer city relative to the prevailing local height and context.
- Section 16.10.1 Residential Quality Standards – Apartments – sets out standards to be achieved in new build apartments.

The policies of the plan in relation to Conservation Areas are set out in Section 11.1.5.4 of the Plan. Relevant policies include the following;

- CHC1 – Preservation of the built heritage of the city.
- CHC4 – Protection of special interest and character of Conservation Areas.
- CHC8 – Facilitate off-street car parking in while protecting the character of protected structures and Conservation Areas.

5.2. National Policy and Guidelines

- National Planning Framework

Section 4.5 of The National Planning Framework sets out that *“general restrictions on building height or universal standards for car parking or garden size may not be applicable in all circumstances in urban areas ...”*

- Urban Development and Building Heights, Guidelines for Planning Authorities (2018)
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018)
- Architectural Heritage Protection Guidelines for Planning Authorities (2004)

6.0 The Appeal

6.1. Grounds of Appeal

The principle grounds of appeal can be summarised as follows:

- Concern is expressed that the Planning Authority did not adequately consider car parking provision and management on the site;

- The proposed development is contrary to the zoning objective which specifically seeks to “*protected and/or improve the amenities of residential conservation areas*”;
- The additional floor would have a negative impact on the Conservation status of the area and the protected structures immediately adjoining the site to the east, numbers 1-4 Church Avenue;
- Errors in the documentation submitted by the applicant;
- The impact of the works on the structural integrity of the No. 1 Church Avenue;
- Impact on the character of the streetscape;
- Concerns raised regarding amenity impact in relation to external render proposed;
- Precedent set by An Bord Pleanala whereby the fourth floor was removed from planning ref. PL. 29S.245849 (DCC Ref. 3766/14) located immediately opposite the site on the corner of Church Avenue and Church Gardens.

6.2. Applicant Response

- In the context of the site and planning policy framework for the area the development represents a suitable infill development which will improve the standard of accommodation on offer whilst respecting the character, appearance and residential amenity of the area;
- The upgrade works will add to the architectural integrity of the area;
- Car parking and entrance revised to meet with parking and access standards and acceptable to the Roads Department of Dublin City Council;
- The development will not put additional pressure on pay and display and permit car parking in the area;
- Additional car parking is not a requirement having regard to proximity to public transport links;

- The existing building is considered to have a negative impact on the character of the area and the redevelopment will be a positive contribution to the character of the area. The development will not result in undue overshadowing or overlooking;
- The development is in accordance with the Sustainable Urban Housing: Design Standards for New Apartments *Guidelines for Planning Authorities*;
- The design has taken account of the established building heights in the vicinity and the proposal does not impact negatively on the residential dwellings to the immediate east;
- Applicants commitment to the project outlined.

6.3. **Planning Authority Response**

The Planning Authority did not respond to the grounds of appeal.

6.4. **Observations**

None received.

6.5. **Appellant's Responses**

- The opening statement sets out that the local residents welcome the proposal to improve the aesthetics of the building;
- It is noted that the applicant has not proposed to alter the design;
- No other substantive issues raised. The submission expands on the issues raised in the original submission.

7.0 **Assessment**

7.1. **Introduction**

The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment and environmental impact assessment screening also need to be addressed. The issues can be dealt with under the following headings:

- Height and Amenity
- Impact on Architectural Heritage and on the Character of the Conversation Area
- Car Parking
- Appropriate Assessment
- Environmental Impact Assessment - Preliminary Screening

7.1.1. The site is zoned Z2 -Residential Neighbourhoods (Conservation Areas) with the following objective; '*To protect and/or improve the amenities of residential conservation areas.*'. Residential is a permissible use within this zoning category. As such the proposal is acceptable in principle, subject to the detailed considerations below.

7.2. Height and Amenity

7.2.1. The existing building is a three-storey flat roofed red brick building. The building does not reflect any significant architectural merit and is visually distinctive from the original period dwellings in the area. I note the grounds for appeal welcome the proposal to improve the visual amenity of the existing building.

7.2.2. The grounds of appeal argue that the proposed additional floor would be out of character with the area and would be detrimental to the visual amenities of the area. In this respect, I note that only brief intermittent views of the additional floor would be available from the approach to the site along Church Avenue, by virtue of the set back from the streets, mature trees and existing buildings. Similarly, views of the proposed development would be significantly constrained from the Holy Trinity Church to the east of the site by virtue of the established building line set back and the seasonal tree cover.

7.2.3. In relation to the detailed design of the 4th floor, the design approach is a contemporary one with a flat roof clad in zinc with large glazed window openings looking onto Church Avenue and Church Gardens. This design approach and palette of materials are appropriate, in my view, and the recessed building line reduces the bulk and mass of the proposal.

- 7.2.4. I note that the prevailing building heights in the area are generally two storeys over basement period properties with ridge heights similar to the current proposal, I am therefore satisfied that the 4th floor addition will not tower above the established building line. The subject proposed development at 12.2m in height does not exceed the current height restriction of 16m as set out in Section 16.7.2 of the Dublin City Development Plan (2016-2022).
- 7.2.5. The grounds of appeal assert that the proposal will detrimentally impact on the residential amenities of neighbouring properties, as a result of potential overlooking of 6A Church Gardens to the north of the site. I note 6A Church Gardens is also in the ownership of the current applicants.
- 7.2.6. The ‘Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities’ and its accompanying ‘Urban Design Manual’ does not set rigid minimum separation distances but does require that habitable rooms and private amenity space should not be directly excessively overlooked by neighbouring residents. The primary living accommodation and balconies overlook the adjoining streets of Church Garden and Church Avenue and not the rear of 6A Church Gardens. Therefore, I do not consider that there will be any significant negative overlooking of 6A Church Gardens as a result of the 4th floor addition.

7.3. Impact on the Character of the Conversation Area and Neighbouring Protected Structures

- 7.3.1. It is asserted in the appeal that the proposed development would be out of character with the area and would have a negative impact on the character of the Conservation area and the terrace of protected structures, 1-4 Church Avenue. I do not consider this to be the case for the reasons as set out above. In this regard I also note Policy CHC4 of the Dublin City Development Plan (2016-2022) states that in relation to Enhancement Opportunities a design approach may include “*Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area*”.
- 7.3.2. The works include the addition of a 4-storey red brick corner feature and the rendering of the red brick façade of the existing building in a selected external insulation render finish, and the replacement of existing windows and doors. The

proposal to improve the overall appearance of the apartment block is welcome, and the contemporary design approach sets a clear distinction between the old and the new and bookends the terrace. I consider this approach acceptable and in line with the Architectural Heritage Protection Guidelines and the Dublin City Development Plan (2016-2022).

- 7.3.3. In terms of the relationship with protected structure no. 1 Church Avenue, I note that the works do not encroach, or overhang no. 1 Church Avenue and the fourth floor will be constructed independent of the shared dividing wall of the existing apartment block and no. 1. Church Avenue.
- 7.3.4. In my opinion, the works will improve the appearance of Trinity House and the Conservation setting and the character and setting of the Protected Structures will not be significantly affected by the proposed additional floor, particularly as the existing building is a more recent structure and not a period building of merit. I conclude therefore that no serious impact will result on the character of the Conservation Area and the setting or appearance of adjacent Protected Structures as a result of the development.

7.4. Car Parking Provision and Management

- 7.4.1. It is proposed to reconfigure the existing car park to provide a total of 5 car parking spaces. On my site inspection I noted that the site currently accommodates 6 car parking spaces. The grounds of appeal argue that the proposed development will result in a loss of car parking and the development will not comply with relevant car parking requirements.
- 7.4.2. I note that the 6 spaces on the site do not conform to standard sizes and require significant manoeuvring to access. The revised layout provides for 5 accessible spaces for a total of 7 apartments. The Development Plan establishes that car parking provision maybe reduced or eliminated in areas that are well served by public transport. This inner-urban site is accessible to public transport including the Luas which is 560m to the east of the site, and there are numerous shops and services within walking distance. Accordingly. I considered the provision of 5 car parking spaces to be acceptable in this context.
- 7.4.3. I also note that permit parking is available in the area.

7.5. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.6. **Environmental Impact Assessment**

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 environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 **Recommendation**

I recommend that planning permission be **GRANTED** for the proposed development having regard to the reasons and considerations and subject to conditions as set out below.

9.0 **Reasons and Considerations**

Having regard to the nature and scale of the proposed development, the pattern of development in the vicinity, the existing development on site and the policies of the Dublin City Development Plan 2016-2022, 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 and would not detract from the character or setting of the adjacent Protected Structure. 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 application [as amended by the further plans and particulars submitted on the 7th day of August 2018, 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. Car parking on site shall be reserved for use by the occupants of the apartments only. At no time shall the car parking spaces be sold, leased or sub-let or otherwise independently used by any third party.

Reason: To ensure that adequate parking spaces are permanently available to serve the proposed residential units.

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

Reason: In the interest of public health.

4. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials for each apartment unit, shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure provision of adequate refuse storage.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 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: To protect the residential amenities of property in the vicinity of the site.

6. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity

7. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the 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.

Irené McCormack
Planning Inspector

19th February 2019