



An
Bord
Pleanála

Inspector's Report ABP-303042-18

Development

Construction of 2 no. additional floors to apartment block (increase from 3 to 5 storeys) to accommodate 6 no. apts with balconies at 3rd and 4th floor levels.

Location

25-36 Manor Villas, Mount Argus Grove, Harold's Cross, Dublin 6w

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

3858/18

Applicant(s)

John Deveraux & Gerard King.

Type of Application

Permission.

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

John Deveraux & Gerard King.

Observer(s)

1. Manor Villas Management Co. Ltd.
2. Residents of Mount Argus
3. Mairead O'Sullivan

Date of Site Inspection

18th of February 2019.

Inspector

Karen Hamilton

1.0 Site Location and Description

- 1.1. The subject site is one of three 3 storey apartment blocks in Manor Court, south of Harold's Cross, Dublin 6. Manor Court is located to the south of Mount Jerome cemetery and north of Mount Argus Church and is surrounded by a two storey detached and semi-detached dwellings. The site and surrounding area is well maintained with mature trees and hedging along the main roads and set within open space.
- 1.2. The apartment block, which is subject to the appeal, is the most northerly of the three apartment blocks is surrounded by open space and has independent vehicular access into the site with off-street parking. This apartment block is separated from the middle block by open space and a 1.2m high post timber fence along the southern boundary.

2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
 - 2 no. additional floors to an apartment block (increased from 3 no. storeys to accommodate 6 no. apartments with balconies).
 - Alterations to existing northwest elevation to remove existing entrance canopy for new entrance arcade at ground floor,
 - Balconies to existing apartment at first and second floors and associated access doors onto balconies;
 - Alterations to the existing northeast and southeast elevations and windows;
 - Renovation of existing facade;
 - Reconfiguration of existing car parking to provide 4 no. additional car parking spaces, increasing the total to 18 no. car parking spaces;
 - Bin store, cycle parking and all associated site works and services.

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse permission for the following reason:

1. Having regard to the overall design, massing and scale of the proposed development, it is considered that the proposed development would adversely affect the residential and visual amenities of the area. It is further considered that the proposed development for 2 additional floors, does not provide for an appropriate transition in scale and as such would set a precedent for other such substandard developments in the area. The proposed development is therefore considered to be contrary to the provisions of the City Development Plan 2016-2022, and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to refuse permission and notes the policies and objectives of the development plan on quality housing and standards for residential development and acknowledged the upgrade of the apartment block would improve the standards although considered the overall design was incongruous to the surrounding area and the orientation and design of the new balconies was unacceptable.

3.2.2. Other Technical Reports

Drainage Division- No objection subject to conditions.

Road Planning Division- No objection subject to conditions

3.3. Prescribed Bodies

None received.

3.4. **Third Party Observations**

A number of third party submissions were received from residents and residents associations in the vicinity and the issues raised have been addressed in the observations with the main issues raised including;

- Impact on residential amenity,
- Overall height and scale of the development,
- Access and traffic congestion,
- Lack of clarity on the drawings.

4.0 **Planning History**

PL29S.112770 (Reg Ref 1758/99)

Permission granted for the addition of two 1 bedroom and two 2 bedroom apartments, new façade, balconies and carpark extension to the existing three storey building.

Condition No 1 required the third floor penthouse apartments to be set back not less than 600mm from the perimeter of the existing building.

5.0 **Policy and Context**

5.1. Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities (2018)

5.2. Urban Development and Building Heights: Guidelines for Planning Authorities (2018)

5.3. **Dublin City Development Plan 2016-2022.**

The site is located on lands zoned as Z1, residential, where it is an objective “*To protect, provide and improve the residential amenities*”.

Quality Housing

QH1 – Promotion of the national guidelines for sustainable housing and the Urban Design Manual.

QH5 To promote residential development addressing any shortfall in housing provision through active land management and a co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and under-utilised sites

QH20- To ensure apartment developments on City Council sites are models of international best practice and deliver the highest quality energy efficient apartments with all the necessary infrastructure where a need is identified.

QH26- To promote the transformation of the key regeneration areas into successful socially integrated neighbourhoods including those on the Main Inner City Regeneration Areas Map and promote area regeneration in parts of the city which require physical improvement and enhancement in terms of quality of life.....

Section 16.10 Standards for Residential Accommodation

Section 16.7.2: Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development

- Outer city- Up to 16m (commercial and residential)
- Assessment criteria for higher buildings includes relationship to context, contribution to the local level, and contribution to public spaces and architectural excellence of a building which is of slender proportions.

Section 16.10.1: Residential Quality Standards – Apartments

Section 16.2.2.3 Alterations and Extensions to dwelling:

The proposed development should be subordinate to the existing building in scale and design and incorporate a high standard of thermal performance and appropriate sustainable design features.

5.4. **Natural Heritage Designations**

None relevant.

5.5. EIA Screening

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.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted from the applicant in relation to the refusal of permission by the planning authority and is summarised below:

- Manor Court has three apartment buildings with the block subject to the proposal owned entirely by the applicant and their family.
- The building is dated and substandard by reference to the most current standards, energy rating, and building regulations.
- The proposal includes renovation and redevelopment guidelines of the entire building.
- The architectural design is guided by the sustainable housing guidelines, the National Planning Framework (NPF) and the building performance regulations.
- The EMRA Regional Spatial & Economic Strategy (RSES) promotes a compact, vibrant and viable city.
- The site is in a City Centre location and the development plan guidance allows for 16m in height for residential development.
- A background to the overall development proposal is detailed.
- The planner's assessment does not indicate any reference to the standards which have not been met in the development plan or technical grounds.

- The planning authority welcomes the addition of balconies to the northwest elevation and at lower levels although criticises the upper level balconies which have the same orientation.
- The thermal performance of the building will be enhanced by the upgraded insulations.
- In addition to the proposed 6 apartments, a lift will be integrated and car parking provided for the entire development.
- The proposed development does not include any negative impact on the residential amenities.

Orientation and Sunlight Analysis

- An analysis of the solar benefits of the orientation of the apartment demonstrates access to sunlight on the balconies and other elevations. The solar analysis demonstrates that the North West elevation benefits most from access to the summer evening sunlight.
- During the vernal equinox (March/ September) the north-west receives 2.31 hrs of sunlight.
- During the summer months (June) the north-west receives 5.51 hrs of sunlight.
- The balcony for units No. 39 & 42 are located along the east of the building and will receive sunlight in the morning

Architectural Quality Report

- The reasons for refusal has challenged the architectural approach, the quality, the finishes, the scale and orientation. This reason has not been substantiated.
- An architectural response “Architectural Quality Report” has been prepared and accompanies the grounds of appeal.
- The background and credentials of the Architect in charge of the project is submitted.
- Examples of similar buildings in Switzerland and Germany are included.

- The simple proportions on the elevations are included as a positive enhancement to the building.
- The contrast between floor thickness and delicate steel balcony provides a simple elegance.
- Slight changes in the thickness of the cladding breaks up the elevations in a subtle way.
- The use of ceramic tiles on the ground floor has been widely used.
- Credentials of architects who have designed similar apartments to the proposed development have been included with awards received in the past.

6.2. Applicant Response

The applicant is the appellant.

6.3. Planning Authority Response

None received.

6.4. Observations

Three observations have been received from residents of a property to the north east of the site, residents associations (observations with multiple signatures) in the vicinity of the apartment block and the management company of the adjoining apartment block and the issues raised are summarised below:

Context

- Mount Argus is a predominantly two storey neighbourhood.
- A previous application on the site in 1999 (Reg Ref 0017/99) for 1 no additional floor was refused for the bulk, scale, lack of public open space and out of context with the surrounding area.
- The quality of information presented with the application is insufficient.
- The site contextual information does not show the impact on the surrounding area, in particular the scale and bulk beside two storey dwellings.

- The adjoining two apartments blocks have units in private ownership and will most likely never be redeveloped, therefore, the proposal will be out of context.
- The reference to the Regional Spatial and Economic Strategy does not override the development plan criteria.
- The existing apartment layout in the drawings do not represent what is constructed on site. Following a grant of permission by the Board in 2000 modifications were made to increase the apartments from 12 to 16.
- The subdivision of apartments is not exempt development and therefore the existing apartment scheme is not in compliance with what is presently on the site.
- Photomontage drawings submitted with the observation illustrate the impact on the surrounding area.
- There is a legal discrepancy in the boundary and the existing fence between Block 1 & 2 of Manor Villas is incorrect.

Design

- The three apartment blocks form a cohesive group with the same elevation materials and height.
- The assessment by the planning authority in relation to the height and balcony provision is regarded as appropriate.
- There would be merit in improving the existing apartments although the submitted scheme fails to achieve this.
- A background to the Mount Argos Church development is provided and justification for the increase in height.
- The reference to architectural quality in European countries is of no relevance as they do not relate to the same contextual surroundings.
- The proposed external materials are not sympathetic to the block of apartments or surrounding red brick dwellings.

- The foundations of the existing block may not be adequate for the addition of 6 apartments.

Residential Amenity

- The impact on the visual and residential amenity has not been addressed in the grounds of appeal.
- The proposal is not in compliance with Policy QH 7& QH8 of the development plan.
- The current apartment development is screened by 2.5m high trees and any increase in height will have a negative impact on the residential amenity.
- The sun path analysis submitted with the application places an undue emphasis on the light available to the residents of Manor Villas and not on the impact on the adjoining properties.
- A sunlight analysis accompanied the observation which illustrates overshadowing on those properties to the north, No. 18 and No. 19 Manor Argus Grove.
- The rear of block 3 faces directly across the apartment block at the front of block 2.

Traffic and Access

- The existing road structure cannot accommodate addition traffic as it is presently at capacity with a high number of illegal parking.
- The construction traffic would have a negative impact on the surrounding area as there is insufficient space to accommodate
- 180 apartments at Mount Argus Mill are due to be released within the next few months and with further bus restricts along Kimmage Road there will be a serious impact on the traffic.

6.5. Further Responses

A response from the applicant on the observations received has been summarised below:

- Mount Argus is an inner suburb in transition from the mid-20th century low density to an urban pattern of 21st century denser urban development.
- The Mount Argus Mill Development, seen from the entrance to Manor Villas is 5 stories in height and located on higher ground than Manor Villas.
- The existing blocks have been recently painted and in good condition.
- The buildings have been set in a position to prevent any overlooking on surrounding areas and the relationship with the apartment blocks prevents overshadowing.
- The terraces to the northwest and the south west have back to back units with no amenity space.
- Two pairs of semi-detached dwellings are located 33.5m to the north.
- Government Guidance in 2018 all relate to advocating more than 2 storeys in inner suburban city centre locations.
- The NPF promotes urbanisation and intensification of development and the minimum heights must be 4 stories.
- As a result of refurbishment the apartment will be far superior to the existing.
- The increased height will not cause any additional overshadowing on the surrounding area.
- In addition to private amenity space, the balconies will provide surveillance on the surrounding area.

7.0 **Assessment**

7.1. The proposed development includes renovation, alteration and increase in the height of an existing apartment block. The reason for refusal relates to the external treatment of the building and location of the proposed balconies. The grounds of appeal consider the renovation, i.e. insulation etc. is necessary to meet current building standards which the planning authority note and do not consider unreasonable. Having regard to the submissions and the reason for refusal I do not consider the renovation of the existing apartments needs addressed and I consider the issues of the appeal can be dealt with under the following headings:

- Principle of Development
- Design and Layout
- Impact on Residential Amenity
- Access and Parking
- Appropriate Assessment

Principle of Development

- 7.2. The proposed development includes 2 additional floors on a three storey apartment block with upgrade of the entire apartment building to integrate a change of elevation and new balconies for the existing apartments. The subject site is one of three apartment buildings surrounded by two storey dwellings. Construction of an apartment development c. 200m south along Mount Argus Road is nearing completion and includes a range of heights from 3 stories to 5 stories. A previous permission was granted on the site for two additional floors (PL29S.112770, Reg Ref 1758/99) with a condition to set back the third floor penthouse apartment from the edge by 600mm.
- 7.3. Having regard to the city centre location, pattern of development in the vicinity and planning history I consider the principle of the proposal is acceptable subject to other planning considerations further detailed below.

Design and Layout

- 7.4. The reason for refusal refers specifically to the overall design, massing and scale of the proposed development which would impact on the residential and visual amenity of the residents and the additional height as inappropriate in a transitional area. The grounds of appeal, submitted by the applicant, argue that no specific technical reference is included in the refusal to support the planning authority decision and consider the proposal is in keeping with government guidance released in 2018. I have addressed the design in the first instance and the impact on the residential amenity separately below.
- 7.5. Height: The proposed development includes an increase from three storey apartment to five storeys 15.8m, which complies with Section 16.7.2 of the development plan which permits up to 16m for residential. The site is located on an

inner city suburban area, c. 200m from a high density apartment development currently under construction and I do not consider it is an inappropriate location for higher density development. The apartment block subject to the appeal, is the most northerly block, set within open space, well screened by mature trees and the Mount Argus Church is visible which towers over the neighbouring two storey dwelling and I consider this apartment building can facilitate an increase in height, subject to other factors discussed below.

- 7.6. Balconies: The balconies for the two new floors are located along the north- west of the site adjoining balconies of adjacent apartments. The report of the area planner references the use of slender steel as substandard and to permit would set an undesirable precedent for other such substandard designs as they would not provide adequate screening to prevent noise disturbance and overlooking. Although specific details on the finishes of the boundary treatment is not included within the plans, I consider these details can be reasonably addressed by the inclusion of a condition requiring a block wall separation. The external materials used on the balconies are referred in the reason for refusal. Photographs of similar designs accompanied the grounds of appeal and whilst I note these have different contextual settings I consider the mix of concrete pillars and steel balustrades will not have a significant negative impact on the visual amenity of the surrounding area.
- 7.7. Elevation treatment- Alterations to the existing elevation include the reduction in the size of some of the windows and change in external material to include white render with glazed tiles along the ground floor. The design follows through to the proposed two additional floors. The report of the area planner referred to the overall design and considered it lacked architectural merit as it was monolithic in appearance which is at odds with the adjoining development. The grounds of appeal is accompanied by examples of similar style buildings in other countries and observations submitted to the appeal consider these examples irrelevant as the contextual setting is different. The proposed apartment retains some of the features of the existing apartment, including the flat roof and window opes. The window sizes are reduced in height and vary significantly to the existing windows and those on the adjoining apartment, an increase in the height of the window sizes to 2m would permit a more seamless transition from Block 2 to the south and I consider this feature can reasonably be altered as a condition. Whilst the external materials are different to the adjoining

apartment block, design features including visual breaks between the floors have been retained and will provide some cohesion and whilst a condition could be included requiring the use of materials to match the adjoining apartments I consider the proposal should represent a development appropriate to the current era and therefore the white render is relevant.

- 7.8. Having regard to the existing location of the site in close proximity to Harold's Cross and good public transport and the siting of the apartments to the north of the existing apartments, the setting around the site and the overall scale and design of the proposed development, I do not consider the proposal will have a significant negative impact on the surrounding area or lead to a precedent for future undesirable developments.

Impact on Residential Amenity

- 7.9. The apartment building is located c. 35m from the nearest dwelling to the north of the site and c. 20m from the nearest dwelling to the west. The report of the area planner considered the proposal would have a negative impact on the amenity of the existing and proposed residents and the grounds of appeal states that the upgrade will enhance the amenity of the existing residents and there will be no adverse impact on the surrounding area.
- 7.10. Balconies: As stated above, balconies for the existing apartments and 4 of the proposed apartments are orientated north-west with a further two balconies located to the north east. The report of the area planner states that the location and design of the balconies to serve either the existing apartment building or the proposed new development is not considered acceptable as they are located on the north eastern and north western elevations and therefore cannot provide an adequate standard of amenity for the residents. A sunlight analysis accompanied the grounds of appeal to illustrate the amount of sunlight available to the apartments in the late evening during vernal equinox (March/ Sept) and summer solictise. The national guidance for new apartments requires the orientation of the apartments to have a dual aspect. The proposed development relates to both the upgrade of existing apartments along with the inclusion of an additional six. The proposed location of the apartments along the north east of the building ensures the least amount of overlooking on adjoining residential properties and therefore an acceptable location. Although it is

acknowledged that the orientation will not make the most advantage of available daylight. It is of note the proposed development includes an upgrade of the existing building rather than a complete new build and I consider the size and design of the balconies will provide sufficient amenity space for the residents. In addition, I consider the inclusion of a solid block wall separating the balconies along the north-west will ensure sufficient privacy is retained for the proposed residents, which can be conditioned.

- 7.11. Overshadowing: The proposed development is located c. 35m to the south of dwellings within the existing residential estate and the proposed height of the apartment building is to be c. 16m in height. Shadow analysis drawings submitted with the planning application illustrate any additional overshadowing on the surrounding road network and along the very edge of side gardens of two properties to the west of the site. Sun path diagrams accompanied one of the observations to illustrate overshadowing along the front of two dwellings to the north of the site. The separation distance between the subject site and these dwellings is c. 35m which I consider a reasonable distance and I consider any additional overshadowing will be limited and would not be a substantive reason for refusal of permission.
- 7.12. Overlooking: As stated above the balconies along the north west of the site are c. 35m from the closest dwelling to the north and considering the existing windows along this three storey façade at approximately the same location, I do not consider there will be any significant increase in overlooking on the surrounding properties.
- 7.13. Development Standards: It is noted that the proposed development involving the provision of 6 no. additional 2 bed units over 2 additional floors complies with minimum standards as set out in the national apartment guidelines.
- 7.14. Part V: The site area is 1,620m² (0.162 hectares) and the proposed development is for an additional 6 no apartments. Under Part V of the Planning and Development Act, 2000, as amended, the applicant can apply for an exemption certification if the development is for 9 or less houses on land of less than 0.1 hectares. Having regard to the number of units and size of the site I do not consider the Part V is applicable to the proposed development.
- 7.15. Having regard to the location of the existing apartment development and the proposed size, scale and massing of the proposed development, I consider the

additional floors, design and orientation of the balconies and the external design would not have a significant negative impact on the residential amenities of the existing or proposed residents.

Access and Car Parking

- 7.16. The proposal include the use of an existing access from the Mount Argus Grove Road, a cul-de-sac, and includes an additional of 4 no. caraprking spaces from existing 14 no. car spaces to provide a total of 18 no. spaces. The subject site is located in Area 3 of Map J of the development plan and Table 16.1 sets out the maximum car parking standards for residential units in this area as 1.5 car spaces per unit.
- 7.17. The existing building accommodates 12 no. residential units and with the additional 6 no. units, the total will be 18 no. residential units. With a total of 18 no. car spaces, this results in 1 no. car space per unit, which is in accordance with the parking standards of the development plan.
- 7.18. It is not considered the proposed development, including the provision of an additional 4 car parking spaces, either in isolation or in combination with other developments in the vicinity, will lead to any significant negative impact on the traffic movements or lead to increased congestion.

Appropriate Assessment

- 7.19. Having regard to the nature and scale of the proposed development within a serviced area and separation distance to the nearest 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 the conservation objectives of any European site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

Having regard to the Z1, residential zoning objective, the scale and nature of the proposed development, the pattern of development in the vicinity, the planning history on the site and the separation distance between the proposed development and the existing dwellings and the policies of the current Dublin City Development Plan 2016-2022, it is considered that subject to compliance with the conditions below, the proposed development would not seriously injure the residential or visual amenity of neighbouring dwellings 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. The proposed development shall be amended as follows:
 - a) The size of the window openings shall be increased in height to not less than 2m in height.
 - b) A block wall of not less than 2m in height shall be provided to separate the balconies along the north west of the apartment building and shall be capped and rendered to match the external materials of the apartment.

Revised drawings showing compliance with these requirements shall be

submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity

4. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the residential or commercial units are made available for occupation.

Reason: To provide for the future maintenance of this private development in the interest of residential amenity and orderly development.

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: In order to safeguard the residential amenities of property in the vicinity.

6. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority for written agreement and include appropriate screening between adjoining sites. This work shall be completed before any of the dwellings are made available for occupation.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose

7. 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

Karen Hamilton
Planning Inspector

25th of February 2019.