



An
Bord
Pleanála

Inspector's Report ABP 303212-18

Development	Demolition of a single storey building, construction of a four-storey building for retail, commercial and office use at ground floor level and three two bed apartments on the upper floors, roof garden stairs and access and bin storage and associated site works.
Location	Nos 19 and 21 Fitzwilliam Street and rear of Nos 4-6 Thorncastle Street, Ringsend, Dublin 4.
Planning Authority	Dublin City Council
P. A. Reg. Ref.	4133/18.
Applicant	Peter, Patricia and Kate Shortt.
Type of Application	Permission.
Decision	Refuse Permission
Type of Appeal	First X Refusal
Appellant	Peter, Patricia and Kate Shortt.
Observer	Transportation Infrastructure Ireland.
Date of Site Inspection	11 March, 2019.
Inspector	Jane Dennehy.

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1.0 Site Location and Description

1.1. The site of the proposed development has a stated area of 122 square metres and is located on the west side of Fitzwilliam Street a short distance from the junction with Bridge Street and directly at the rear of properties on the east side of Thorncastle Street. There is a single storey flat roofed structure on the site. To the rear west side and north side also with a gated entrance onto Fitzwilliam Street is a yard which is adjacent to the rear/eastern façade of Nos 4-6 Thorncastle Street, a three-storey building with a double roof in use at ground floor level as a pharmacy. To the south side of the site No 17 Fitzwilliam Street is redbrick faced building whereas to the north side by a relatively recently constructed contemporary style two storey building.

2.0 Proposed Development

2.1. The application lodged with the planning authority indicates proposals for:

Demolition of a single storey building and,

Construction of a four-storey building for retail, commercial and office use at ground floor level and residential use, (three apartments) on the upper floors, roof garden stairs and access and bin storage and associated site works.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 3rd December, 2018, the planning authority decided to refuse permission based on three reasons which are reproduced below:

Reason One.

“The proposed development due to the height, depth and scale of the building, is considered an overdevelopment of the subject site, would be incompatible with the established layout and pattern of development in the vicinity and would have a detrimental impact on the property at 4-6 Thorncastle Street with respect to overshadowing and loss of light to first and second floor rear windows. The proposal does not adequately response the prevailing heights of neighbouring buildings and would be seriously injurious

to the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.”

Reason Two

“The proposed internal layouts of the apartments are considered to be substandard in terms of floor area in accordance with the Sustainable Urban Housing – Design Standards for New Apartments (2018) and the balconies at first and second floor level would infringe an existing building line by projecting over the public footpath. The proposed development would, therefore, provide an unsatisfactory standard of residential amenity for future occupants and would set a precedent for similar type development and would be contrary to the proper planning and sustainable development of the area.”

Reason Three

“Given the significant depth and scale of the proposed building, the proposed roof top terrace at 4th floor level will overlook neighbouring rear private open space and will have detrimental impact on neighbouring privacy and amenity. The proposed development would therefore seriously injure the amenities of property in the vicinity and would set an undesirable precedent for similar development 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 officer considers that minimum floor areas having regard to the standards in the Apartment Guidelines are not achieved. He notes the reliance on inclusion of the area of projecting balconies for the stated floor area of 73.75 square metres for the first and second floor apartments. He considers the floor area for these units to be the same as that of the third-floor unit which is 68.75 square metres. Also indicated is concern about internal floor to ceiling heights and adverse impact on adjoining properties due to communal open space provision in the form of the roof garden and obstruction of light to the rear elevation windows of Nos 4-6.Thorncastle Street. The characteristics of the Fitzwilliam street frontage as being

of mixed character and prevalence in servicing the buildings on Thorncastle Street is noted.

3.2.2. Other Technical Reports

The report of the Transportation Department indicates acceptance of the proposal and agreement to the exclusion of carparking to serve the development.

The report of the Drainage Division indicates acceptance of the proposal

The report of the city archaeologist on the previous unsuccessful application indicated recommendations for inclusion of an archaeological monitoring condition if permission is granted. (P.A. Reg. Ref. 3246/18 refers – See section 4 below.)

3.3. Prescribed Bodies

- 3.3.1. Transportation Infrastructure Ireland in a submission indicates that the location comes within the area of the Section 49 Supplementary Development Contribution Scheme LUAS Red Line Docklands Extension (C1) and requests that a development contribution condition be attached if permission is granted.

4.0 Planning History

P. A. Reg. Ref. 3246/18: Permission was refused for the demolition of a single storey building and and construction of a four-storey building, consisting of a ground floor retail unit and three two bed apartments roof garden and bin storage and associated site development works based on three reasons which in brief, relate to grounds of:

Overdevelopment, inadequate response to buildings lines and building heights and adverse visual impact contrary to section 16.10.16 of the CDP.

Substandard floor areas for the apartment units having regard to *Sustainable Urban Housing Design Standards for New Apartments: Guidelines for Planning Authorities* issued by DHPLG.

Overlooking from fourth floor terrace to adjoin private open spaces and undesirable precedent for similar development.

P. A. Reg. Ref. 3562/06: Permission was granted for the demolition of a single storey building and, construction of a four-storey building, consisting of a ground floor retail unit and three apartments at 19/21 Fitzwilliam St. and to the rear of Nos 4/6 Thorncastle St.

The planning officer's report includes details of prior applications for development at No 23 Fitzwilliam Street, (P. A. Reg. Refs. 2745/14, 3708/06, 1848/05 refer) and prior grants of permission at Nos 4 and or 6 Thorncastle Street, (P. A. Reg. Ref. 1488/99, 1133/01 and 1364/01 refer.)

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Dublin City Development Plan 2016-2022. (CDP)

The location is within the Strategic Development and Regeneration Area No 6 (Docklands and wider Docklands Area.)

The site location is subject to the zoning policy Z4: District Centres incorporating Prime Urban Centres and where the objective is "*To provide for and improve mixed service facilities*".

Indicative site coverage is 80 per cent and indicative plot ratio is 2.0.

Qualitative standards for apartment developments are provided in section 16.10.2 but should there be any variance with "*Sustainable Urban Housing – Design Standards for New Apartments*" issued in 2018 (Apartment Guidelines) under Section 28 of the Act the latter shall apply. Sections 16.10.10 and 16.10.11f provide standard and guidance on residential infill and mixed-use development.

Thorncastle Street is within Parking Area 3 for which there is requirement for 1.5 per dwelling and 1 space per 75 square metres in retail space.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was received from Mark Gilligan on behalf of the applicant on 13th December, 2018 attached to which are photographs, an extract on minimum floor areas and standards for apartments, and a letter of support, (originally submitted at application stage) by the Owner of the property at No 23 Fitzwilliam Street. The case made in the appeal can be outlined in brief below.

- The proposed development is amended in design from the previous application under P. A. Reg. Ref. 3246/18 is similar in scale, height and depth to the previously permitted development, (P. A. Reg. Ref. 3562/06 refers,) is in keeping with a four-storey building in the vicinity, guidelines on building height and, is acceptable to the adjoining property owner. No overlooking will occur as setbacks are proposed.
- The proposed development. is similar in scale height and depth, plot ratio, site coverage, footprint, opening onto Fitzwilliam Street, overlooking and separation distances within the internal yard. to the previously permitted development under P. A. Reg. Ref. 3562/06,
- The apartment layouts and sizes are in keeping with the Apartment Guidelines. (Drawing 003 shows room sizes etc.) is amended in design from the previous application under P. A. Reg. Ref. 3246/18.
- A four-storey building with 100 per cent site coverage has been permitted for the site at No 23 Fitzwilliam street to the north side and this house allows for further additions and floor levels. The owner submitted a letter of support at application stage.
- There are two and three storey buildings and vacant plots available for development on the street. No 28 Fitzwilliam Street is a four-storey building with a strong street edge and the height is in keeping with the proposed development. This establishes character, building height and a skyline for the area. (Drawing 003 and submitted photographs refer.) There are also four

storey buildings with balconies at Thorncastle Street, Fitzwilliam Street, St. Patricks Villas and Park View Place.

- The proposed parapet and setback at third floor level accords with the form of the building at No 22 Fitzwilliam Street. The height is reduced from the height shown for the previous proposal under P. A. Reg. Ref. 3246/18 resulting in loss of the roof garden access pod and reduction in floor to ceiling height. The Board is requested to consider allowing for an amendment that provides for floor to ceiling height of 2.7 metres as per drawing 3246/18 attached.
- The applicant is in full ownership of the commercial building at No 4/6 Thorncastle Street. All the rear facing windows can be fitted with obscure glazing and use will be for ventilation purposes. Most of the rear facing windows are for toilets and kitchens and there will be adequate light because of office commercial lighting system that are used.
- The development accords with policies in the Apartment Guidelines for increased height and density where there is good access public transport etc. This facilitates redevelopment, regeneration and infill to secure the objectives of the NPF and regional spatial and economic strategies with blanket building height limitations being discouraged.
- The floor areas for the apartments accord with the minimum required for two-bedroom apartments of 63-73 square metres. The floor area for the apartments are 74.75 for a four-person unit and 68.75 for a three-person unit. The balconies can be amended by condition if required. Amendments can be made to provide for meeting standards for three people or even one-bedroom units and incorporation of balconies into the overall space if required.
- The projection of the balconies at first and second levels have reduced to 600 mm from the 1100 mm previously proposed. There are many examples of similar overhanging balconies through the city including Fitzwilliam Street and St Patrick's Villas. The applicant will accept a condition for modification of balcony depths resulting in apartment floor area of circa 68.75 square metres (3person units) if required.
- The adjoining property owners at No 23 Fitzwilliam Street have provided a letter of support for the application. The roof garden space was required for

the development permitted under P. A. Reg. Ref. 3562/06 and includes perimeter setbacks to maintain the privacy of the garden spaces as agreed with the owner of No 23 Fitzwilliam Street. Privacy screens can be provided if required and a condition to this effect would be acceptable. However, the applicant also agrees with the planning officer that the three apartments may not require communal open space provision, (in the form of the roof garden) and it is requested that this element of the development be omitted should be proposed development be permitted.

It is requested that permission be granted, and that the decision of the planning authority be overturned.

6.2. Planning Authority Response

There is no submission from the planning authority on file.

6.3. Observations

- 6.3.1. Transportation Infrastructure Ireland in a submission indicates that the location comes within the area of the Section 49 Supplementary Development Contribution Scheme LUAS Red Line Docklands Extension (C1) and requests that a development contribution condition be attached if permission is granted.

7.0 Assessment

- 7.1. There is no objection to the proposed demolition of the existing structure and redevelopment of the site is in principle supported and to be encouraged. It is acknowledged that the unsuccessful proposal lodged under P. A. Reg. Ref. 3246/18 and prior grant of permission under P. A. Reg. Ref. 3562/06 which was not taken up and implemented, have been taken into consideration in formulating the current proposal. The current proposal is considered on its own merits with reference the current planning context.
- 7.2. In the appeal against the three reasons attached to the decision to refuse permission that applicant has indicated a willingness to agree to minor modifications by way of

condition if required. The appeal grounds against of each of the reasons are considered below:

- 7.3. While it is agreed that there is some diversity in building typology in the Fitzwilliam Street area, the site configuration is constrained. The plot configuration on the west side of Fitzwilliam Street comprises mainly shallow plots, and, historically development may have had a subordinate or service function to the properties on the east side of Thorncastle Street a principle street. Nos 4-6 Thorncastle Street the adjoining property on the east/rear side of the site is a three-storey building which has rear elevation windows for the upper floors. It is considered that existing and potential future use of these floors, must be taken into in consideration in proposals for redevelopment of the application site.
- 7.4. It is agreed with the planning officer that the height above that of the eaves of Nos 4-6 Thorncastle Street is visually overbearing and unacceptable in view of the proximity to the rear façade in which there are windows serving the internal accommodation of Nos 4-6 Thorncastle Street resulting on loss of access to daylight. There is no evidence in the application that daylight penetration to the internal accommodation in the upper floors of Nos 4-6 Thorncastle Street would not fall below minimum standards with regard to vertical sky component as provided for in BS standards.
- 7.5. The proposed block is visually conspicuous and obtrusive in views towards the front elevation on Fitzwilliam Street where the parapet itself, notwithstanding the setback floor above, is above the ridge height of the property at No 17. Similarly, it dominates the building to the north side in these views. The setback at top floor level is limited as an ameliorative measure. Furthermore, the proposed building is also visually conspicuous and obtrusive in views due to overbearing impact of the massing and height of the extensive south facing elevation dwarfing No 17 Fitzwilliam Street in views from Bridge Street to the south. The reductions in the internal floor to ceiling heights relative to the previous unsuccessful proposal are not effective in ameliorating the impact due to height. (P. A. Reg. Ref. 3562/18 refers.) The issues raised by planning officer regarding the adverse impact on the amenities of adjoining properties and associated private open space while reduced somewhat would not be overcome through omission of a floor.

- 7.6. It is agreed with the planning officer that the proposed communal roof garden would give rise to overlooking of adjoining properties. While privacy screens could be erected, as suggested in the appeal, it is considered that, particularly given the proximity to adjoining properties, the use would give rise to perceptions of overlooking and intrusiveness on the privacy of adjoining properties. The possibility of a waiver of a requirement to provide for communal open space indicated by the planning officer in his report is noted and may be reasonable subject to a high standard of amenity being attained for apartment units in the development.
- 7.7. There is no objection to the proposed demolition of the existing structure and redevelopment of the site is in principle; to fulfil the strategic objectives for consolidation intensification of use and increased densities in the interest of sustainable development is supported and to be encouraged. However, bearing the foregoing in mind, as regards relative flexibility that can be applied with regard to the indicative site coverage and plot ratios, provided for in the CDP, the subject site does not have the capacity to accept the stated plot ratio of 2.83 and site coverage of eighty three percent.
- 7.8. A modest overhang over the public footpath for balconies subject to there being no objection to the projection into the public realm, within public ownership from the City Council. However, it is considered that floor areas for external private open space provision cannot be included in the calculations to establish compliance with minimum internal space floor areas for apartment units as provided for in the Apartment Guidelines. However, the applicant has indicated a willingness to amend the proposals for the first and second floor apartments by a reduction in the number of bed spaces which may be feasible, but details of the proposed amended layouts are not available. It is therefore not possible to establish if satisfactory qualitative standards, consistent with the guidance in the Apartment Guidelines could be achieved.
- 7.9. **Environmental Impact Assessment Screening.**
- 7.9.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental

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

7.10. Appropriate Assessment Screening.

- 7.10.1. Having regard to the small-scale nature of the proposed development and, to the serviced inner urban location, no Appropriate Assessment issues proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. In view of the foregoing, it is recommended that the planning authority decision be upheld, and that permission should be refused based on the reasoning provided in draft form below.

9.0 Reasons and Considerations

It is considered that the proposed development constitutes overdevelopment, having regard to the site configuration, footprint, scale, mass, height and design of the proposed block. It would dwarf and be overbearing on the surrounding buildings, would be visually conspicuous and obtrusive, would fail to integrate into the established surrounding built environment, would seriously injure the amenities of adjoining properties especially Nos 4-6 Thorncastle Street where it would obstruct access to daylight to the interior at first and second floor levels. As a result, the proposed development would be contrary to the proper planning and sustainable development of the area.

Jane Dennehy
Senior Planning Inspector
15th March, 2019.