



An
Bord
Pleanála

Inspector's Report ABP 303465-19

Development	Demolish existing building and construct a three-storey contemporary mixed-use building
Location	O'Doherty House, Howth Road, Raheny, Dublin 5
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4495/17
Applicant(s)	Kildorcet Construction Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Kildorcet Construction Ltd.
Observer(s)	Raheny Business Association
Date of Site Inspection	12 th March 2019
Inspector	Irené McCormack

1.0 Site Location and Description

- 1.1. The appeal site is located in the centre of Raheny Village to the south side of Howth Road and to the west of the junction with Main Street and Station Road. The site is approx.8.5km northeast of Dublin City Centre. Raheny Dart station is located 125m north of the site.
- 1.2. The general area is commercial and institutional in character and the site is adjoined on the eastern side by St. Assam's Church. Raheny Scout Hall is located to the west and Raheny Shamrock Athletic Club is located to the rear of the site. The Our Lady Mother of Devine Grace R.C Church is located on the northern side of Howth Road opposite the site. There is a subtle fall in the landscape from north to south towards Howth Road and in an east-west direction from the junction of Howth Road and Station Road. The Santry River is located 30m south of the site.
- 1.3. The site is occupied by a vacant single storey building which formally accommodated a Credit Union. There is a 2-metre-high roadside boundary wall with railings on top fronting the street and there is a bus stop located in front of the site.

2.0 Proposed Development

- 2.1. The development will consist of the demolition of the existing commercial building and the construction of a three-storey contemporary style mixed use building comprising:
 - 1 no. retail unit to accommodate Member First Credit Union at ground floor level.
 - 4 no. two bedroom apartments and 2 no. one bedroom apartments at first floor and second floor levels to include private balconies at first & second floor levels and communal landscaped open space area to the rear.
 - Vehicular entrance gate on Howth Road to provide access for car parking and secure drop off zone for the Member First Credit Union.
 - Pedestrian entrance gate on Howth Road and 6 no. car parking spaces at ground level to the rear and bicycle parking.

- Landscaping, boundary treatments, SuDS drainage, and all ancillary works to facilitate the development.

2.1.1. Further information received by the Planning Authority on 13th November 2018 included; a Sunlight/Daylight Access Analysis; Archaeological Impact Assessment; Photomontages; Conservation Report; Site Specific Flood Risk Assessment; and A Bat Assessment.

2.1.2. In response to concerns raised by the planning authority some amendments were made to the proposal resulting in the provision of 1.8m obscure glazing screens to the northern balconies in order to mitigate overlooking whilst allowing light through and an enlarged communal open space to the rear.

3.0 Planning Authority Decision

3.1. Decision

Refused permission for the following reason:

Having regard to CHC2 and 11.1.5.3 Protected Structures - Policy Application of the Dublin City Development Plan 2016-2022, it is considered that the proposed new three storey building has little regard for the sensitivities of the site or the character and scale of the historic village centre and has a seriously injurious and negative impact on the setting of St. Assam's Church, a protected structure. The proposed development does not make appropriate contextual references to the surrounding historic structures, either in form, massing, articulation or materiality of the high design quality or scale required to complement and enhance the setting of the protected structure and the historic village context. The proposed development would, therefore, be contrary to the Ministerial Guidelines Architectural Heritage Protection -Guidelines for Planning Authorities and to the provisions of the Dublin City Development Plan 2016-2022, set an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. **Planning Reports** (dated 14th February 2018 and 10th December 2018)

The Planner's Report is the basis for the Planning Authority decision.

The reports note the following:

- The proposal in terms of the proposed uses with ground floor office space and apartments overhead would complement the existing village district centre mix and add to vitality and viability of the village.
- Overall design approach does not take account of the established pattern of development and the impact of the development on the development potential of the adjoining lands.
- Overlooking of the Scout Hall to be addressed.
- Provision of children's Play area to the rear to be addressed.
- The development will provide active street frontage.
- The proposed development will have a significantly detrimental impact on the setting of the protected structure, St. Assam's Church and the historic village core.

3.2.2. Other Technical Reports

Conservation Officer – In their report dated 10/12/2018 the Conservation officer recommends refusal stating that the proposed development makes no appropriate contextual references to the surrounding historic or protected structures, either in form, massing, articulation or materiality.

City Archaeologist - No objection subject to monitoring condition

Engineering Department – Drainage Division - no objection subject to conditions.

Roads & Traffic Planning Division – no report on file, but reference within Planner's Report regarding the relocation of the Bus Shelter and noting the comments of the NTA recommending suitable condition be applied to agree same. No objection raised.

3.3. Prescribed Bodies

Iarnród Éireann – (24th January 2018) Reference is made to the responsibility of the applicant to ensure appropriate noise mitigation measures employed.

Dublin Bus – (24th January 2018) additional information required with respect the relocation of the Bus Shelter.

NTA – (22nd January 2018) Will liaise with the applicant with regard to the final location of the bus shelter - and would not oppose a suitably worded condition requiring same.

3.4. **Third-Party Observations**

A total of six submissions were made in relation to the development. A brief summary of the issues raised in the submissions to the Planning Authority are set out below:

- Development premature pending masterplan
- Design out of character with the area and represents a detrimental impact on St. Assam's Church, a protected structure
- Additional traffic movements and vehicular conflicts
- The impact of the development on the location of the Bus Stop
- Overlooking of overshadowing of the Scouts Den
- Impact on structural integrity of Scouts Den
- Proposal will land lock Raheny Shamrock Athletic Club and it's access.
- Potential impact on archaeology
- Impact on adjoining Santry River
- No reference to adjoining protected structure in the development description
- The Registered No. of the Company not valid.

4.0 **Planning History**

4.1. Site

DCC Ref. 3817/17 - Planning permission refused in 2017 for a similar development citing two reasons for refusal in relation to the design of the development and the impact on St. Assam's Church, it's historic setting and the contribution to the village streetscape.

4.2. Surrounding

DCC Ref. 2487/09 / ABP ref. PL29N.234572. Planning permission granted in 2009 for the restoration and internal alterations to church, extension to provide office accommodation, facility for sports club extension and associated works at St. Assam's Church (Protected Structure), Howth Road, Raheny, Dublin 5.

DCC Ref. 2542/11 – Planning permission granted in 2011 for alterations to above development.

5.0 Policy and Context

5.1. Development Plan

The site is zoned Z4: District Centres – *“To provide for and improve mixed-services facilities”*.

The site is located within the zone of archaeological potential for Raheny (RMP DU015-082) and to the northwest of Recorded Monument *DU015-082003 (Ecclesiastical Enclosure)* and to the west of Recorded Monument *DU015-082001 Church* and Recorded Monument *DU015-082002 Graveyard*.

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

- Section 11.1.5.13: Preservation of Zones of Archaeological Interest and Industrial Heritage
- Section 14.1 Zoning Principles -development should be encouraged in established centres, and the re-development of under-utilised and brownfield land in these areas should be promoted
- Parking: Area 2 applies to the appeal site. 1 car parking space is required per residential unit.

- 11.1.5.3 Protected Structures – Policy Application - In order to protect the city’s Protected Structures, the City Council will manage and control external and internal works that materially affect the character of the structure.
- CHC1 – Preservation of the built heritage of the city.
- CHC2 - To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage.
- Chapter 16 sets out Design Principles and Standards
- 16.2 Design Principles and Standards.

“All development will be expected to incorporate exemplary standards of high quality sustainable and inclusive urban design and architecture befitting the city’s environment and heritage and its diverse range of locally distinctive neighbourhoods.

In the appropriate context, imaginative contemporary architecture is encouraged provided that it respects Dublin’s heritage and local distinctiveness and enriches its city environment. Through its design, use of materials and finishes, development will make a positive contribution to the townscape and urban realm, and to its environmental performance. In particular, development will respond creatively to and respect and enhance its context.”

- Policy SC25 – To promote high standards of design
- Policy QH18 – To promote the provision of high-quality apartments
- Section 16.7.2 of the Development Plan includes height limits for development, including a 24m restriction for development within 500m of rail hubs.
- Section 16.10.1 Residential Quality Standards – Apartments – sets out standards to be achieved in new build apartments.
- Policy QH8 of the Dublin City Development Plan 2016-2022 seeks “*To promote the sustainable development of vacant or under-utilised infill sites*

and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area”.

5.1.1. **National Policy and Guidelines**

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018)
- Architectural Heritage Protection Guidelines for Planning Authorities (2004)
New development should - *“respect the physical, historic and aesthetic character and integrity of cultural property”.*

5.2. **Natural Heritage Designations**

There are two designed sites within 1.1km of the site.

- North Dublin Bay SAC (site code 00206) is located 1.1m southeast of the site.
- North Bull Island SPA (site code 004006) is located 1.1km south of the site.

5.3. **Environmental Impact Assessment - Preliminary Examination**

On the issue of Environmental Impact Assessment screening I note that the relevant classes for consideration are class 10(b)(i) *“Construction of more than 500 dwelling units”* and 10(b)(iv) *“Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere”*. Having regard to the size of the development site (.964ha) and scale of the development it is sub threshold and the proposal does not require mandatory Environmental Impact Assessment. Having regard to the nature and scale of the proposed development, the brownfield nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The applicant has submitted an appeal, the grounds of which is summarised as follows:

- The proposed development provides for a modest mixed-use development consistent with the NPF, with a scale and design that avoids any loss of amenity or integrity of adjoining properties, particularly those included on the Record of Protected Structures.
- The development proposal was modified on foot of the further information requested by the Planning Authority. The reason to refuse permission is unfounded.
- The development is in compliance with the Urban Development and Building Heights Guidelines, 2018.
- The current design has been revised to address reasons for refusal as set out under permission application DCC Ref. 3817/17- the scale has been reduced and the design modified to address the site context.
- The proposed contemporary building represents a positive addition to the streetscape and allows for a clear distinction between modern and period architecture.
- Previous permission granted for a contemporary modern extension to St. Assam's Church. Other precedents noted elsewhere is the City.
- The proposed dwelling complies with Development Plan policies in relation to zoning objectives, density and minimum standards for houses. The proposal represents a high quality and appropriate design for the site.

6.2. Planning Authority Response

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

6.3. Observations

1 no. observation received from the Raheny Business Association, 134 Bettyglen, Raheny, Dublin 5.

The principal comments can be summarised as follows:

- The redevelopment of the site is welcome.
- The development plan seeks to ensure that new developments respect and enhance the setting of protected structures. The proposed design and materials proposed are unsympathetic to the site's surroundings.
- Reference to the contents of Conservation report submitted setting out that a *building will obscure view of the western end of the church when seen from the northwest...*

6.4. Further Responses

None

7.0 Assessment

7.1. The appeal site is zoned Z4: District Centres – *“To provide for and improve mixed-services facilities”*. Retail/Commercial and Residential uses are permissible within this zoning category. As such the proposal is acceptable in principle, subject to the detailed considerations below.

7.1.1. I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Principle of Development
- Impact on Architectural Heritage and Historic Village Core
- Other Issues
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The proposal provides for the demolition of the existing vacant commercial building and the construction of a three-storey contemporary style mixed-use scheme comprising of a ground floor commercial unit and 6 apartments. The provision of mixed-use development on the site in the village centre, 125m south of Raheny Dart station would be consistent with the policies of the Planning Authority as set out in Section 14.1 *Zoning Principles* of the Development Plan which seek to encourage the development of underutilised and brownfield sites adjacent and close to public transport nodes.

- 7.2.2. It is considered that the proposed development in terms of floor areas, privacy, aspect, natural light and ventilation and private open space would be acceptable and in accordance with Development Plan standards and the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, March 2018. The Planning Authority have raised no issues in this regard.
- 7.2.3. I note that 6 car parking spaces have been provide to the rear of the site, one space for each of the 6 apartments proposed. The Development Plan establishes that car parking provision maybe reduced or eliminated in areas that are well served by public transport. This site is accessible to public transport including the Dart which is 125m to the north of the site, and there are numerous shops and services within walking distance. There is no issue with car parking provision on the site.
- 7.2.4. It is acknowledged that prevailing building heights in the area are generally single to two storeys with the exception of the immediately adjoining St. Assam's Church and the R.C Church located opposite the site. The ridge height of the development is lower than both of these buildings. I also note that the proposed development at 12.5m in height does not exceed the current height restriction of 24m as set out in Section 16.7.2 of the Dublin City Development Plan (2016-2022).

7.3. Impact on Architectural Heritage and Historic Village Core

- 7.3.1. The Planning Authority's decision to refuse permission refers to the proposed development as having little regard for the sensitivities of the site or the character and scale of the historic village centre and being seriously injurious and negative impact on the setting of St. Assam's Church, a protected structure. The conservation officers report forms the basis of the planning decision and the report asserts that the proposed development does not make appropriate contextual references to the surrounding historic structures, either in form, massing, articulation or materiality of the high design quality or scale required to complement and enhance the setting of the protected structure and the historic village context.
- 7.3.2. The applicants Conservation report indicates that most buildings in Raheny village are late 19th Century buildings and not of any particular architectural merit. There are two other protected structures in the vicinity of the site - the Crescent Cottages located to the east of the main crossroads and the former St. Assam's Church,

located on an Island to the east of the main crossroads. The report concludes that the development would not impact on either of these. I would agree.

- 7.3.3. In terms of the relationship with protected structure St. Assam's Church immediately adjoining the site, I note that the new building would be completely independent of the Church. The works do not encroach upon or overhang the Church and there would be a 7m separation distance between the western gable of the church and the new building. With respect to contextual references, the building would be subordinate to the church. There would be no overlooking issues and the recessed front entrance and landscaping proposed would create an attractive civic space in the village centre. I consider the contrast in architectural form and design serve to highlight the church. I also consider the proposal will assist in defining the centre of the village and I consider this approach acceptable and in line with the Architectural Heritage Protection Guidelines to respect the physical, historic and aesthetic character and integrity of cultural property. I also note Policy QH8 of the Dublin City Development Plan 2016-2022 seeks the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.
- 7.3.4. The materials proposed primarily include the use of brick, stone and glass with elements of powder coated aluminium cladding. The contemporary design approach and finishes sets a clear distinction between the old and the new and contrast effectively with the stone facade of St. Assam's Church. I consider this approach acceptable and that the proposed development would make a positive contribution to the townscape and urban realm.
- 7.3.5. I acknowledge that the building will be a prominent feature in the streetscape. However, in the context of the site and the adjoining vistas of St. Assam's Church and the historic village core, I consider the proposed development would represent the evolution of architectural form and expression. The juxtaposition of the contemporary box form and the separation distance from the Church would achieve a significant architectural contrast that would not detract from the setting of St. Assam's but rather highlight the Church. The development would create an attractive and interesting vista on the approach to the site from all directions and enhance the overall character of the area. Computer-generated 3-dimensional images from three selected views were submitted with the Planning Application to illustrate existing and

proposed views of the development site from Howth Road and Station Road. In my opinion the development, set back from the street edge and in line with the primary building line of St. Assam's Church, whilst being significantly lower in height, would not appear over dominant or incongruous in the streetscape, so as to negatively affect the visual amenities of the area or the historic village core.

7.4. Other Matters

- 7.4.1. I note an Archaeology and Cultural Heritage report was submitted as part of the response to the further information requested. The history of Raheny and previous archeologically investigation have been reviewed as part of the report and having regard to the location of the site within the zone of archaeological potential for Raheny (RMP DU015-082) monitoring of all ground disturbance works has been recommended. In this regard I note the City Archaeologist has raised no objection subject to archaeological monitoring.
- 7.4.2. The site-specific Flood Risk Assessment was carried out. The report concludes that the site is not at risk of fluvial, coastal or groundwater flooding. The primary risk of flooding would be due to potential pluvial flooding from the existing urban drainage and water supply infrastructure. The report concludes that the site falls within flood zone C and the flood risk to the proposed development site is low. The Engineering Department – Drainage Division of Dublin City Council raised no objection to the development subject to appropriate conditions.
- 7.4.3. A Bat Survey report was carried out on the site in October 2018. No evidence that bats were present within the Church or Credit union building (to be demolished) was noted and the report concluded that the development would have no impact upon the conservation status of any bat species. This is acceptable.
- 7.4.4. The issue of overlooking of the adjoining Scouts Den was a concern raised by the Planning Authority. There is no residential amenity associated with the Scouts Den. However, the applicant has proposed to use obscure glazing to a height of 1.8m on the north facing balconies to address concerns.
- 7.4.5. A Sunlight and Daylight Access Analysis report submitted sets out that the proposed development is not predicted to result in any undue adverse impacts on sunlight and

daylight access to neighbouring lands. Daylight and Sunlight provision for the proposed development is consistent with average requirements. This is acceptable.

- 7.4.6. I note the applicant's intention to retain the bus shelter fronting the site subject to agreement with the NTA and Dublin Bus. The NTA have no objection to the development subject to a suitable condition to address the Bus Shelter.
- 7.4.7. Raheny Shamrock Athletic Club in their submission to the planning authority raised a concern regarding access to their site. I note the existing access to the site is via the vehicular access serving the Scouts Den. The development will not impact on this existing access arrangement.
- 7.4.8. An indicative masterplan for the development of the adjoining lands currently occupied by the Scouts Den and the Raheny Shamrock Athletic Club was also submitted as further information. The layout indicates that the proposed development would not impact on the future development potential of these lands.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the brownfield nature and small scale of the development and nature of the receiving environment, 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 and projects on a European Site.

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 13th November 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. Details, including samples, of the materials, colours and textures of all the external finishes to the building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Prior to the commencement of development, the developer shall facilitate, in consultation with Dublin Bus and the National Transport Authority, the provision of a Bus Stop and Shelter to replace the existing Bus Stop and Shelter fronting the site. The cost of the works shall be borne by the developer.

Reason: In the interest of proper planning and orderly development.

4. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

- 5. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, no additional plant, machinery or telecommunications structures shall be erected on the roof of the building; or any external fans, louvres or ducts be installed without a prior grant of planning permission.

Reason: In the interest of visual amenity.

- 6. 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.

- 7. Site development and building works shall be carried out only between the hours of 0700 to 1800 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.

8. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

9. 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 recyclable materials and for the ongoing operation of these facilities 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: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

10. 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.

11. 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

2nd May 2019