



An
Bord
Pleanála

Inspector's Report ABP 303672-19

Development	Additional apartment
Location	17 Anglesea Road, Dublin 4
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4373/18
Applicant(s)	Edward & Joyce Kelly
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Edward & Joyce Kelly
Observer(s)	None
Date of Site Inspection	3 rd May 2019
Inspector	Irené McCormack

1.0 Site Location and Description

- 1.1. The subject site is located on Anglesea Road, to the east of the Dodder River and to the southwest of the RDS in Ballsbridge, Dublin 4 approximately 3 kilometres southeast of the city centre. There is a laneway on the southern side boundary which provided access to a mews dwelling (located in the former rear garden of no. 17), a large period residential property and an apartment complex.
- 1.2. The site is rectangular in shape and comprises a two-storey house with attic conversion and a two-storey rear return extension. The existing property contains five pre-1963 residential units. The rear of the site is currently laid out as a communal rear garden. A new boundary wall and timber sliding gates have been erected along the southern side boundary.

2.0 Proposed Development

- 2.1. The development will comprise; the variation of approved planning permission DCC Ref. 3792/17 to provide for an additional, single storey, one-bedroom apartment to the rear of the house.
- 2.2. The new apartment is a modern design that reflects the linear extension of the house. The development includes alterations to the layout of previously permitted 3792/17 in terms of communal open space provision and the location of a central bin store for all apartments.

3.0 Planning Authority Decision

3.1. Decision

REFUSED for the following two reasons:

1. Having regard to the scale and extent of the proposed development, the proposal would constitute over-development of the site and would result in development which would be seriously injurious to the amenity of adjacent properties and would conflict with the established pattern and character of

development in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development would contravene materially a condition attached to an existing permission for residential development on the site (Ref. No. 3792/17) whereby Condition No. 2(a) and (b) required the proposed dwelling to be omitted and the resultant area included as communal open space and bin storage to serve the residential units in the main building at no. 17 Anglesea Road. The proposed development would constitute overdevelopment of a restricted site on a laneway. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

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

The Planning Officer's reports notes the zoning provisions of the area, relevant policy objectives, recent planning history and the observations on file. In relation to design and modifications to planning permission 3792/17 the report notes the following:

- The proposal is similar to that of 3792/17. Condition no. 2 of 3792/17 omitted the 'apartment'. The planning authority is of the view that the development is a single storey dwelling and not an apartment and should be assessed under relevant standards applicable to a house.
- It is set out that the former rear garden was previously subdivided and developed as a mews dwelling.
- There will be no communal open space. Plot ratio, site coverage and private open space standards are complied with. Car parking is not necessary in this instance.
- Central bin store is located on the lane remote of main front access and residents will have to exit the building and walk down the lane to access the bins.

- Overall having regard to the scale, location and the impact of the proposal on the existing mews and number 15 Anglesea Road the development is considered overdevelopment of the site and would conflict with the established pattern of development by creating a further layer of backland development.

3.2.2. **Other Technical Reports**

- 3.2.3. The Engineering Department Drainage Division in their report of 6th December 2018 set out no objection to the proposed development subject to conditions.

4.0 **Planning History**

Site

DCC 3792/17 – Planning permission granted in 2017 for the extension and reconfiguration of no.17 Anglesea Road to include the demolition of existing rear extension, construction of a new single-storey extension and convert the building from currently comprising of 5 apartments to 4 apartments. This development has not yet been carried out.

Surrounding

DCC WEB 1298/17 and 1004/17 – These are 2017 permissions for the mews dwelling to the rear of the site.

5.0 **Policy and Context**

5.1. **Development Plan**

- 5.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022.

The zoning objective relating to the site is land use zoning objective Z1 “*to protect, provide and improve residential amenities*”.

- 5.1.2. The site is located in a conservation area associated with the Dodder River.
- 5.1.3. Relevant planning policies for the proposed development are set out under Section 5 (Quality Housing) and Section 16 (Development Standards) within Volume 1 of the Development Plan. Policy QH1 of the Plan seeks to build upon and enhance

standards outlined in ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007), amongst other National Guidelines. Policy QH21 of the Plan is relevant, and this seeks ‘to ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation’. Policy QH22 of the Plan seeks to ‘ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise’. Design principles for infill development are set out in Section 16.2.2.2 of the Development Plan. Design standards for houses are set out in Section 16.10.2 of the Plan and matters to be considered in assessing proposals for infill housing are outlined under Sections 16.10.9 and 16.10.10 of the Plan, respectively.

- 5.1.4. Chapter 5 of the Development Plan specifically relates to housing. Policy QH5 seeks to promote residential development addressing any shortfall in housing provision to active land management and a coordinated planned approach to developing appropriately zoned land at key locations including regeneration areas, vacant sites and underutilised sites.
- 5.1.5. In terms of Conservation Areas, Dublin City Council seek to ensure the development proposals within all Architectural Conservation Areas and conservation areas complement the character of the area and comply with development standards.

5.2. **National Policy and Guidelines**

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

5.3. **Natural Heritage Designations**

South Dublin Bay and River Tolka SPA (site code 004024) is located 1.7Km east of the site.

5.4. **EIA Screening**

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 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:

- It is set out that the development is an extension of the existing structure and the proposed apartment forms part of a reconfiguration of previous planning DCC Ref. 3792/17.
- The area reflects mixed housing types including detached houses, terraced houses and apartments. It is hard to establish what pattern is being referred to in the planner’s report.
- It is set out that the second reason for refusal that the development contravenes a condition attached to an earlier permission is a circular argument and not a reason for refusal.
- The size of the apartment has been amended to address issues raised under DCC Ref. 3792/17. The suggestion that the rear garden be used as a communal space is not realistic and the site is located beside Herbert Park.

6.2. **Planning Authority Response**

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

6.3. **Observations**

None

7.0 **Assessment**

7.1.1. The main issues that arise for assessment by the Board in relation to this appeal can be addressed under the following Board headings:

- Principle of Development
- Design, Overdevelopment, Impact on Character of the Area and Residential Amenity
- Other issues
- Appropriate Assessment Screening

7.2. **Principle of Development**

7.2.1. The site is zoned Z1 – “*to protect, provide and improve residential amenities*”.

Residential is a permissible use within this zoning category. As such the proposal is acceptable in principle.

7.2.2. The proposed development will comprise modifications to approved planning permission DCC Ref. 3792/17 to provide for an additional, single storey, one-bedroom apartment to the rear of the house. Permission was granted by Dublin City Council under 3792/17 for the extension and reconfiguration of no.17 Anglesea Road, erection of extension to provide for 5 apartments. Condition no. 2 of 3792/17 omitted a proposed apartment to the rear similar to the current proposal.

7.2.3. The planning officer in their assessment consider the development to reflect a single storey dwelling and not an apartment. By reasons of the restricted nature of the site and the associated impact on open space provision, it was considered the

development constitutes overdevelopment of the site and is contrary to the pattern of development in the area and associated residential amenity.

- 7.2.4. Under Section 2(1) of the Planning and Development Act 2000, as amended, the definition of a 'house' includes an apartment and the definition of a 'habitable house' is a house which is used as a 'dwelling'. While the Act or the accompanying Regulations do not proceed to define a 'dwelling', a common dictionary definition is 'a building or place of shelter to live in; place of residence; abode; home'.
- 7.2.5. The 'New Apartments Guidelines' define an 'apartment' as 'a self-contained residential unit in a multi-unit building with grouped or common access'. I am satisfied that the subject building of this planning appeal does not fit into this definition, as it is a complete standalone own-door independent residential structure. Therefore, the proposed development should not be assessed against standards required for new apartment developments. I am satisfied that the development should be assessed against standards for urban housing. Accordingly, the proposed is most suitably assessed with regard to policy QH21 of the Dublin City Development Plan 2016-2022 referring to urban housing and the relevant guidelines for urban housing that are referenced in Section 16 of the Development Plan.

7.3. **Design, Overdevelopment, Impact on Character of the Area and Residential Amenity**

- 7.3.1. The existing building is a two-storey semi-detached dwelling with attic conversion. In relation to the **design** of the development, the design approach is a contemporary one with a central mono-pitch zinc roof feature at a height of almost 3.4m stepping to single storey flat roof connecting to the rear two-storey return. A large light well penetrates the rear flat roof element. The design approach and palette of materials are appropriate, in my view, and compliment the overall approach approved under P.A. Ref. 3792/17. The stepped single storey design reduces the scale and bulk of the proposal such that it will not be clearly visible behind the existing 2m high boundary wall.
- 7.3.2. Based on Development Plan standards requiring 10sq.m of private amenity space per bedspace in new houses outside the inner city, the minimum amount of private

open space required would be 20sq.m. The proposal provides for 13.5sqm of enclosed private open space to the front and a 4.9sqm rear corner courtyard. While it would be desirable to position the garden space solely to the rear of the dwelling, this is not a specific requirement of the Development Plan or National Guidelines, and it is often not feasible in an infill site such as the appeal site. However, I would only consider that front garden space would be appropriate as amenity space, where it is screened from the public realm and neighbouring properties, and where sufficient area is available to create an attractive space and a suitable level of amenity. It is proposed to enclose the front garden area with 2m-high walls and, as a consequence, I would question the attractiveness of this space in serving as a private amenity area for future occupants. I am not satisfied that this would provide a usable or an attractive amenity space for future occupants. In conclusion, I consider that the proposed development would result in a substandard level of private amenity space for the house and I recommend that the proposed development is refused permission in relation to this matter.

- 7.3.3. The planning authority considers the proposed development represents **overdevelopment** of the site. The indicative plot ratio for lands zoned Objective Z1 is 0.5 - 2.0 and site coverage of 45% - 60%, it is noted that the current development on the site has a plot ratio of approximately 0.1 and site coverage of 58.7%. The development is therefore in line with the Development Plan standards and this was acknowledged by the planning officer in their assessment.
- 7.3.4. The Development Plan lists a range of criteria to be assessed for proposals of this nature, including the character of the area, compatibility with adjoining dwellings and building lines. The planning authority's position is focused on the scale of the proposal and the conflict with the established pattern and character of development in the area and the impact of residential amenity. I note the general area reflects a pattern of two-storey family homes with extensive rear gardens.
- 7.3.5. The potential for negative impact on established **residential amenity** is assessed particularly with regard to impact on the adjacent properties. The proposed development is single storey in nature and there is no negative overshadowing or overlooking of neighbouring private amenity areas as a result of the development. Furthermore, all works will be carried out within the site as outlined in red and no works will be permitted to encroach or overhang third party properties.

7.3.6. However, the footprint of the apartment will extend over most of the remaining open space to the rear of the site. As a result, no communal open space for the permitted apartments will be provided as part of the development. I consider the loss of this communal open space and the extensive footprint of the building contrary to the established suburban pattern of development in the area and contrary to Section 16.10.1 Residential Quality Standards – Apartments of the Development Plan which requires, in addition to providing private open space, apartment schemes must also provide for communal open space. Communal open space is a critical environmental resource as a 'breathing space' and for meeting the amenity needs of residents. The development should be refused for this reason.

7.3.1. In conclusion, the proposed development would not provide for a suitable level of amenity for the future residents of the apartment development permitted under P.A. Ref. 3792/17, by virtue of the substandard amenity space proposed and, as such, the proposed development would not be compliant with Section 16.10.1 of the Development Plan.

7.4. **Other Issues**

7.4.1. The planning authority asserts that the proposal will materially contravene planning permission DCC ref. 3792/17. Condition no.2 (a) and (b) are of relevance to the current application. This stipulated the development shall be revised as follows:

a) The proposed single storey rear extension, which accommodates Unit Number 2 at ground floor level shall be omitted from this development, and this area to be used as a communal rear garden serving the remaining 3 units. Access to the rear garden to be agreed in writing.

b) The bin store area as indicated on Drawing P01 Rev B, shall be omitted. A revised location shall be provided within the site boundary in the communal rear garden area and shall be appropriately screened...

Reason: In the interests of orderly development and visual amenity.

7.4.2. Applicants are entitled to make further applications for planning permission which, if granted, will supersede existing permissions. Therefore, I do not consider this to be an issue in this instance and the current proposal should be assessed on its own merits.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and small 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.

8.0 **Recommendation**

- 8.1. I recommend that permission is **refused** in accordance with the following reasons, considerations, and conditions.

9.0 **Reasons and Considerations**

1. Having regard to the design and layout of the proposed development, it is considered that the development is a standalone own-door independent residential dwelling and not an apartment, and the layout of the proposed development, including the enclosed front and rear garden areas, would provide inadequate and fragmented private amenity space, would constitute a substandard form of development, would be seriously injurious to the residential amenities of future occupants of the house and would be contrary to Policy QH21 of the Dublin City Development Plan 2016-2022, which seeks to ensure that new houses provide a satisfactory level of residential amenity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the provisions of the Dublin City Development Plan 2016-2022 and to the layout and design of the proposed development, it is considered that the layout does not provide for a suitable level of amenity for the future residents of the apartment development permitted under P.A. Ref. 3792/17, by virtue of the extensive footprint proposed, the associated conflict with the established pattern and character of the area open and the substandard provision of amenity space, as such, the proposed development constitutes overdevelopment of the site and would be contrary to Section

16.10.1 of the Dublin City Development Plan 2016-2022 which requires communal open space to be provided for apartment developments. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Irené McCormack
Planning Inspector

17th May 2019