



An
Bord
Pleanála

Inspector's Report ABP-303959-19

Development	Demolition of derelict property and workshop, Construction of a retail unit and apartments.
Location	5, Echlin Street, Dublin 8
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2022/19
Applicant(s)	Tony Goldrick
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	John Lonergan
Observer(s)	Anthony Harte & Noel Hallahan
Date of Site Inspection	27/05/19
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1. The subject site is located on the western side of Echlin street, a short, mixed-use street running from James Street in the north to Grand Canal Place in the south, in Dublin south inner city.
- 1.2. Currently on site is a two-storey vacant building with a retail unit at ground level and a number of derelict outbuildings to the rear. To the immediate north is the four-storey residential Echlin Buildings. To the immediate south is the corner building, three-storey Harkins public house that faces both Echlin Street and Grand Canal Place. To the north of the rear of the subject site, is the three-storey residential apartment block Saint James Court. To the west of the subject site is the six-storey residential block Anna Livia apartments.

2.0 Proposed Development

- 2.1. On the 7th January 2019 planning permission was sought for the demolition of the existing property and workshop (254sq.m.) and construction of a five-storey building with a retail unit (100sq.m.) at ground floor and two-bedroom apartments (73sq.m.) at first, second and third floor levels and a one-bedroom apartment (58sq.m.) at fourth floor level.
- 2.2. Details provided in the application form are as follows:
 - Total site area: 262sq.m.
 - Proposed floor area: 511sq.m.
 - Proposed demolition: 254sq.m.
 - Proposed plot ratio: 2.04
 - Proposed site coverage: 49%

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 1st of March 2019 the Planning Authority issued a notification of their intention to GRANT permission subject to 16 no. conditions. Conditions of note are:
 - 3: Development to be revised: ridge height lowered, dormer window at fourth floor, gable elevations fronting onto Grand Canal Place, rear elevation of brick finish.

- 11: City Archaeologist requirements
- 12: Transportation Department requirements
- 14: finishes of retail unit to be agreed

3.2. **Planning Authority Reports**

- 3.2.1. **Drainage Division:** No objection subject to conditions.
- 3.2.2. **City Archaeologist:** Development is within zone of archaeological constraint for recorded monument DU018-020(Dublin City). Possibility that the remains of late C17th / C18th development survive at subsurface level. Condition for archaeological protection recommended.
- 3.2.3. **Transportation Department:** No objection subject to conditions regarding construction management plan, provision of cycle parking and two standard conditions.
- 3.2.4. **Planning Report:** Subject site is located in SDRA16 Liberties and Newmarket Square and within Liberties LAP. Proposed development is mixed use (residential and retail) and lower height than that previously refused. Development meets plot ratio and site coverage recommendations. Proposed residential units meet development management standards for floor area, private open space, and storage. Apartment at fourth floor must provide dormer windows rather than rooflights. Given the location, that no parking has been proposed is acceptable. Proposed development addresses the concerns of the previous refusals. Eaves height of adjoining building should be respected. Recommendation to grant permission.

3.3. **Prescribed Bodies**

- 3.3.1. None on file.

3.4. **Third Party Observations**

- 3.4.1. Two observations to the proposed development were submitted to the Planning Authority referred to the planning history, lack of detail on the retail and residential units, lack of a lift, development is too high, noise pollution, injury to sunlight, traffic disturbance and congestion and overlooking from proposed balconies. Up-to-date shadow analysis is required.

4.0 Planning History

- 4.1.1. Planning Authority reg. ref. **3408/18**: Planning permission was refused for the demolition of the existing building and the construction of a mixed-use development of 15.04m high with 9 no. apartments. Permission was refused for the following reasons:

5.0 Policy and Context

5.1. Project Ireland 2040: National Planning Framework

- 5.1.1. This national policy seeks to support the future growth and success of Dublin as Irelands leading global city of scale, by better managing Dublin's growth to ensure that more of it can be accommodated within and close to the city. Enabling significant population and jobs growth in the Dublin metropolitan area, together with better management of the trend towards overspill into surrounding counties.
- 5.1.2. The NPF recognises that at a metropolitan scale, this will require focus on a number of large regeneration and redevelopment projects, particularly with regard to underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development.
- 5.1.3. Of relevance to the subject application are the following:
- **National Policy Objective 2a**: A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs
 - **National Policy Objective 5**: Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.
 - **National Policy Objective 6**: Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.

5.2. **Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018**

- 5.2.1. Reflecting the National Planning Framework strategic outcomes in relation to compact urban growth, the Government considers that there is significant scope to accommodate anticipated population growth and development needs, whether for housing, employment or other purposes, by building up and consolidating the development of our existing urban areas.
- 5.2.2. The first of the 10 National Strategic Outcomes in the National Planning Framework that the Government is seeking to secure relates to compact urban growth. Securing compact and sustainable urban growth means focusing on reusing previously developed 'brownfield' land, building up infill sites and either reusing or redeveloping existing sites and buildings, in well serviced urban locations, particularly those served by good public transport and supporting services, including employment opportunities.
- 5.2.3. While achieving higher density does not automatically and constantly imply taller buildings alone, increased building height is a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability. Accordingly, the development plan must include the positive disposition towards appropriate assessment criteria that will enable proper consideration of development proposals for increased building height linked to the achievement of a greater density of development.
- 5.2.4. **SPPR1:** In accordance with Government policy to support increased building height in locations with good public transport accessibility, particularly town / city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

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

- 5.3.1. In the plan, the site is zoned '**Z1 Sustainable Residential Neighbourhoods**' which has the stated objective "to protect, provide and improve residential amenities". Within Z1 zones 'Residential' and 'Shop Local' are permissible uses.
- 5.3.2. **Chapter 16** includes the Development Management Standards and has regard to Design, Layout, Mix of Uses and Sustainable Design. **Table 16.1** provides the Maximum Car Parking Standards for Various Land-Uses and **Table 16.2** the Cycle Parking Standards. Applicable to the proposed development are the following:
- Indicative plot ratio for Z1 zones is 0.5 to 2.0,
 - Indicative site coverage for the Z1 zone is 45-60%
- 5.3.3. The subject site is located in the SDRA no. 16 Liberties and Newmarket Square

5.4. **Liberties LAP**

- 5.4.1. The objective of the Local Area Plan (LAP) is to set out an inspirational vision that will guide the sustainable regeneration of the Liberties
1. To improve the quality of life so that the Liberties becomes a great place for people to live, work and visit.
 2. To provide for appropriate social and community infrastructure to support the existing population, which is growing and becoming increasingly diverse.
 3. To provide for a wide diversity and choice of housing that can cater for families and older people by including options for mixed tenure and a range of housing types and unit sizes.

5.5. **Natural Heritage Designations**

- 5.5.1. The subject site is located 4.5km from the South Dublin Bay Estuary and River Tolka Estuary SPA and 5.1km from the South Dublin Bay SAC.

5.6. **EIA Screening**

- 5.6.1. Having regard to nature of the development and the urban location of the site 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

6.1.1. A third-party appeal against the decision of the Planning Authority to grant permission has been submitted. The appellant John Lonergan lives in no. 28d Echlin Buildings. The grounds of the appeal can be summarised as follows:

- The demolition of the existing property could damage the building next door – Echlin Buildings which dates from the 1870's.
- The proposed retail unit will cause traffic disruption and noise that will disturb existing residents.
- Noise will travel through the walls, disturbing adjoining residents.
- Late-night noise from the walled garden will disturb residents.
- Some flats experience low pressure. The proposed development will exacerbate the water supply.
- The proposed building is too high and will reduce sunlight to Echlin Street.
- The proposed balconies will disturb neighbours through lack of privacy and noise.
- There is insufficient parking and residents will park outside the adjoining Echlin Building.

6.2. Applicant Response

6.2.1. None on file.

6.3. Planning Authority Response

6.3.1. None on file.

6.4. Observations

6.4.1. An observation has been received from Anthony Harte and Noel Hallahan, the owners and residents of apartment no.s 34 and 35 Saint James Court – the building

to the north of the subject site. The matters raised in the observation can be summarised as follows:

- The observers do not object to the development of the subject site but the proposed development will significantly, negatively affect their homes.
- The proposed development has not addressed the reasons for refusing the previous development.
- The proposed development is 14.5m. The previously refused development was 15.04m. Reason no. 3 of the previous refusal considered the 15m building to be overbearing and cause overlooking and overshadowing of neighbouring residences. The existing building on site is two-storey and allows light to the rear of the Observers properties. The proposed development would plunge their homes into darkness all day. The Planning Authority refused the previous building on this ground.
- An up-to-date shadow analysis has not been submitted with the subject application.
- The proposed building will be twice the depth of any of the adjoining buildings. In narrow Echlin Street, the proposed building will be a massive, overlooking and imposing structure close to homes.
- The observers use their private open space to a great extent (photos submitted). The proposed development will overlook this space and windows and doors on the south facing elevation of Saint James Court.
- The proposed development will overshadow the private open space and windows & doors on the southern elevation of Saint James Court.

6.5. Further Responses

6.5.1. None received.

7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Impact on Residential Amenity

7.2. Principle of the Proposed Development

7.2.1. The subject site is zoned Z1, Sustainable Residential Neighbourhood. Residential development is permitted in principle in such areas, as is shop local. The scale of the proposed retail unit at 100sq.m. is such that it is considered to be a local shop. The noise and traffic generated by the proposed 100sq.m. retail unit is not considered to be significant. It is considered that the scale of the proposed retail unit is such that it will not significantly or unduly affect the amenities of the adjoining properties. Ground floor commercial / retail use is not uncommon in this inner-city area. I note the public house to the immediate south of the subject site and the former retail use of the ground floor of the existing building.

7.2.2. The issue regarding impact on water pressure / supply is a matter for the Planning Authority and not one that can be adjudicated within the remit of this appeal.

7.2.3. Subject to other planning considerations regarding the protection of residential amenities, the proposed development is acceptable in principle.

7.3. Impact on Residential Amenity

7.3.1. The germane issue raised by the Appellant and the observers relates to the height, scale and bulk of the proposed development and the impact that will have on the residential amenity of the adjoining residential buildings.

7.3.2. The previously refused development was of a similar height to that currently proposed. The 0.5m height difference between the two is not significant or material. The wider area is home to a number of buildings of greater height. The proposed

building matches the height of the adjoining Echlin Court to the north, creating a uniformity in the streetscape.

- 7.3.3. I note and share the Planning Authority's concern with the proposed rooflight illumination of the bedroom of apartment no. four. I agree with the condition of the Planning Authority that the bedroom window should be replaced with a dormer window. Should the Board decide to grant permission, this can be achieved by way of condition.
- 7.3.4. The Observers apartment block St James Court is a four-storey development to the north of the subject site. The rear building wall of floors 1-4 of the proposed development is roughly in line with the eastern elevation of St. James Court. The southern elevation of St James Court will remain unobstructed and there will be no reduction in sunlight from the proposed development.
- 7.3.5. Each of the proposed western facing balconies to the rear of floors 1-4 of the proposed development is angled to the west and enclosed. There will be no overlooking of the southern elevation of the buildings to the north. The separation distance of 23m from the apartment development to the west is sufficient to prevent any overlooking.
- 7.3.6. I am satisfied that the proposed development will not cause injury or undue impact to the residential amenities of surrounding properties.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that the 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

- 8.1.1. It is recommended that permission to retain be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

9.1 Having regard to the zoning objective of the area, the design, layout and scale of the proposed development to be retained and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission to retain is sought 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 Prior to the commencement of development, that developer shall submit for the written agreement of the Planning Authority, details of the omission of the proposed attic level rooflights illuminating the fourth-floor bedroom, on the eastern elevation and their replacement with a dormer window of comparable size.

Reason: In the interest of protecting the residential amenity of future residents of apartment no. 4.

3 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.

- 4 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 and to ensure a proper standard of development.

- 5 Site development and building works shall be carried out only between the hours of 0800 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 amenities of property in the vicinity.

- 6 All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

- 7 The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development

- 8 Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Classes 1, 3 and 5 of Schedule 2, Part 1 to those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

Reason: In the interest of orderly development, and to allow the planning authority to assess the impact of any such development on the amenities of the area through the statutory planning process

9. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Gillian Kane
Senior Planning Inspector

27 May 2019