



An
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Inspector's Report ABP-303992-19

Development	Provision of an additional floor above approved 6th floor level to provide 2 apartments at 7th floor level. An increase of apartments from 36 to 38.
Location	No. 19-20, Blackhall Street, Smithfield, Dublin 7, D07 A073 (with frontage to Oxmantown lane)
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	4693/18
Applicant(s)	Red Rock Ltd.
Type of Application	Permission.
Planning Authority Decision	Split decision
Type of Appeal	First Party
Appellant(s)	Red Rock Ltd.
Observer(s)	Transport Infrastructure Ireland.
Date of Site Inspection	7 th June.
Inspector	Sarah Lynch

1.0 Site Location and Description

- 1.1. The site is located on the southern side of Blackhall Street and was previously occupied by a two-storey commercial building and associated yard which is now demolished. The site is accessed directly from Blackhall Street and is bounded to the west by an existing 5 storey mixed use building located on the corner of Blackhall Place and Blackhall Street and to the east by a row of existing three-storey houses. The southern boundary abuts Oxmantown Lane which is occupied by apartment buildings.
- 1.2. The surrounding area is characterised by a mix of commercial and residential uses of various design, scale and height.

2.0 Proposed Development

- 2.1. It is proposed to construct the following development:
 - Provision of additional floor above 6th floor to provide 2 no. one bedroom apartments and increase building height to 25.2 metres.
 - Alteration to condition no.5 of planning permission 3014/18 to allow the approved ground floor office to be let and operated as a Class 3 office use.

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council issued a split decision as follows:

- (a) Permission was **granted** subject to standard conditions for the alterations to condition no. 5 of reg ref 3014/18 to allow the approved ground floor office unit to be let and operated as a class 3 office use independent from the approved apartments.
- (b) Permission was **refused** for the provision of an additional floor above the approved 6th floor level to provide 2 no. one bedroom apartments at 7th floor for the following reason:

The proposed eight storey penthouse onto Blackhall Street through its design, form, scale, height and proportions would be overdevelopment of the subject site and would be detrimental to the visual amenity of the streetscape. The proposed increase in height would negatively impact on the unified architectural treatment along Blackhall Street and the historic character and fabric of the area. The additional storey would create an unwanted precedent for similar type development in the area and the proposal, therefore, would be contrary to the current City Development Plan and 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 consistent with the decision of the planning authority.

3.2.2. Other Technical Reports

- Drainage Division – no objection subject to conditions.
- City Archaeologist – no objection subject to conditions.

3.3. Prescribed Bodies

- Transport Infrastructure Ireland – Section 49 financial contribution should be levied.

3.4. Third Party Observations

- None

4.0 Planning History

3014/18 - permission was granted for the demolition of existing building and the construction of a 7 storey apartment building consisting of 36 apartments.

0178/18 – permission was granted for demolition of existing building and construction of 7 storey apartment building consisting of 41 apartments.

4143/16 – permission was granted for the demolition of an existing structure and construction of a 5-storey office building.

5.0 Policy and Context

5.1. Development Plan

The Dublin City Development Plan 2016-2022

The site is zoned Z5 'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.'

- Section 4.5.3.1 Urban Density - quality density is delivered through a variety of mechanisms such as contextual streetscapes, urban form, stepped heights in transitional zones
- Section 6.5.4 Regeneration/Vacant Land/Active Land Management
- Section 16.10 Standards for Residential Accommodation
- Section 16.7.2 Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development* (See Building Height in Dublin)
- QH21 – Provision of adequate residential amenity
- CC4 – Daylight and natural ventilation
- Section 16.7.2 Assessment Criteria for Higher Buildings

Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, Department of Housing, Planning and Local Government March 2018

- SPPR 2 – Dwelling mix.
- SPPR 5 – Ground floor ceiling heights
- Section 4.11 - adequate levels of sunlight to reach communal amenity space throughout the year.
- Section 6.5 – Apartments and daylight provision.

Urban Development and Building Height Guidelines for Planning Authorities 2018

- Section 3.0 - Building Height and Development Management
- Section 3.1 - Development Management Principles 3.1

Project Ireland National Planning Framework 2040

- Section 1.2 Making the vision a reality
- Section 4.5 Achieving urban infill / brownfield development

5.2. Natural Heritage Designations

- None

5.3. EIA Screening

5.4. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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

A first party appeal has been prepared by Hughes Planning and Development Consultants on behalf of the applicants Red Rock Ltd. The issues raised in the appeal can be summarised as follows:

- The proposal will provide much needed housing units for the area.
- Dublin City Council did not provide a rationale for their decision.
- The Board are requested to consider the original design in the first instance, an alternative proposal has also been submitted for the consideration of the Board.
- The proposed additional floor makes a negligible change to the streetscape.
- There is a precedent for increased heights at this location as per planning ref 3613/16 at Hendrick Street and 3538/17 at 40-41 Stoneybatter & 1-3 Blackhall place.

- Site is well serviced by public transport and is in walking distance of city centre.
- National Planning framework and Regional Planning Guidelines support the notion of urban infill development.
- Urban development and building heights guidelines 2018 encourage increases in heights.
- 1 additional floor to a 7 storey building is not overdevelopment.
- Proposed height is 25.2 metres, DCC permits up to 24 metres in such areas.

7.0 Assessment

7.1. The site is subject to the Z5 zoning objective which seeks ‘to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity’. The principle of residential development is established and permitted within this zoning objective. It is important to note at this juncture that additional plans have been submitted with the appeal which provide for a smaller penthouse floor to that refused by the Local Authority. The applicant has requested the Board to consider the refused plans in the first instance and in the event that these are not considered to be acceptable, to then consider the plans submitted with the appeal. The issues before the Board are solely in relation to the additional floor proposed and the refusal of this floor by the local authority. The remainder of the development has obtained permission and is under construction at present. The issues can therefore be summarised as follows:

- Building height & Impact on streetscape
- Overdevelopment
- Appropriate Assessment

Building height & Impact on streetscape

7.2. It is contended by Dublin City Council that the proposed additional floor results in the building being over-scaled for its location and fails to have regard to the historic context or urban form which is predominantly 3 storey terraced dwellings. The Council further contends that the proposed development by virtue of the multiple set backs within its eastern elevation would be significantly different to the unified architectural treatment

along Blackhall Street. Concerns have been raised regarding the dramatic increase in height and the impact this would have on the uniformity and historic character of the area.

- 7.3. The applicant rebuts the concerns raised by the Council and states within the grounds of appeal that the proposal makes a negligible change to the streetscape and such increases in height and density are supported by national policy and guidance.
- 7.4. As mentioned above the appeal site is sited in an inner-city location in an area identified within the Dublin City Development Plan as in need of regeneration. Development within the immediate vicinity of the appeal site consists of 6-7 storey commercial and residential buildings, 5 storey apartments and three-storey terrace dwellings. Various materials and finishes have been used within the buildings and whilst I observed blocks of uniform building types, each block is of different design, scale, proportions and finished with different materials. Having regard to the diversity of development present I do not consider there to be a unified architectural treatment within this street. To say so would suggest that the street has adhered to a single palate of materials, height and/or building form. This is not the case.
- 7.5. Section 4.5.4.1 of the Dublin City Development Plan requires that in all cases, proposals for taller buildings must respect their context and address the assessment criteria set out in the development standards section, to ensure that taller buildings achieve high standards in relation to design, sustainability, amenity, impacts on the receiving environment, and the protection or framing of important views. The design standards of the development plan set out in Section 16.7.2 outlines that heights within the inner city of up to 24 metres for residential and 28 metres for commercial are permissible.
- 7.6. The building to be constructed on the appeal site is a mix of commercial and residential uses and has an overall height of 25.2 metres. The plans submitted to the Council provided for a penthouse development recessed from the front building line and flush with the eastern elevation. This proposal was to be finished in similar bricks to that of the permitted building.
- 7.7. A revised set of plans have been submitted with the appeal and provide for a similar penthouse development which is recessed at both the front and eastern elevations and finished in zinc cladding. This revised proposal provides for 2 no. one bedroom

apartments similar to the proposal submitted to the Council, however the floor area of these apartments is smaller but within the minimum floor area permitted for such developments within the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, Department of Housing, Planning and Local Government March 2018.

- 7.8. The revised proposal provides for a subservient recessed form of development which is light weight in proportions and diminutive in scale by reasons of the proposed finishes and position removed from the outer elevations of the permitted building. I consider the revised proposal submitted with the appeal to be a more appropriate form of development in light of Dublin City Council's concerns in relation to scale and height. This proposal by virtue of the significant recess on both the front and eastern elevation would not appear overly dominant when viewed in conjunction with the existing three storey terraced properties on Blackhall Street and would assimilate seamlessly into the permitted building. If the Board is of a mind to grant permission I recommend that the development is constructed in accordance with the revised plans submitted with the appeal.
- 7.9. In relation to the overall height of the proposal, as mentioned above the appeal site is located within an inner-city location which is served by a high frequency multimodal public transport system. It is a key objective of the National Planning Framework to support high density development within such areas of the city in order to achieve consolidated and compact development. This is bolstered by the Urban Development and Building Height Guidelines for Planning Authorities 2018, in which there is a presumption in favour of buildings of increased height in our city cores and in other urban locations with good public transport accessibility. These guidelines reference the need to effectively supporting the National Strategic Objective of the NPF to deliver compact growth in our urban centres. In light of the foregoing I consider a breach of 1.2 metres above the permitted 24 metre height cap for such development in the inner city to be minor in this instance.
- 7.10. Furthermore, given the location of the proposed development c. 130 metres perpendicular to the Law Society building on Blackhall Place and the presence of an existing 6 storey building between this site and the appeal site, I do not consider that the proposed recessed penthouse will have any impact on the integrity of this protected structure or its setting. The proposal will be largely out of sight from the

Protected Structure and will not interfere with the vista of its setting when viewed from Blackhall Street.

- 7.11. The revised proposal submitted with the appeal will provide for much needed accommodation within this brownfield infill site and is in accordance with government policy and guidance in this regard.

Overdevelopment

- 7.12. Notwithstanding that the development is located in an area well serviced by public transport and is c. 150 metres from the Luas line, the Council are concerned that the additional 2 no. apartments would ultimately result in an over development of the site. Plot ratios outlined within Section 16.5 of the Dublin City Development Plan 2016-2022 indicates that a plot ratio of 2-3 is acceptable on Z5 zoned lands. However, a higher plot ratio may be permitted in areas where lands adjoin major public transport termini and corridors, and in circumstances where the development would facilitate comprehensive redevelopment in areas in need of urban renewal. The appeal site location is proximate to a multimodal public transport network and is identified as an area in need of regeneration. Having regard to the foregoing and the key objectives of the NPF in terms of compact development, I consider that the addition of 2 no. one bedroom apartments would not result in an overdevelopment of this highly accessible inner-city site and the proposed development for is therefore acceptable in this regard.

Appropriate Assessment

- 7.13. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site

8.0 Recommendation

- 8.1. I recommend that permission is granted subject to the following conditions.

9.0 Reasons and Considerations

9.1. Having regard to the zoning objective for the site, the provisions of the Dublin City Development Plan 2016-2022, the existing pattern of development in the area, and the nature and scale of the proposed development, 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. 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 appeal and dated 15/03/2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The terms and conditions of permission 3014/18 for the original development shall be fully complied with except where modified by this permission.

Reason: In the interest of proper planning and development.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area

4. Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

5. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

6. 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.

7. The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Sarah Lynch
Planning Inspector

24th June 2019