



An
Bord
Pleanála

Inspector's Report

ABP-304280-19

Development	Demolition of 2 no. 2 storey derelict houses and Construction of a mixed-use development.
Location	113, Phibsborough Road / Royal Canal Bank, Dublin 7.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	3706/18
Applicant(s)	P. Rooney Roofing.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Saltcross Ltd.
Observer(s)	Transport Infrastructure Ireland.
Date of Site Inspection	19 th July 2019.
Inspector	Sarah Lynch

1.0 Site Location and Description

- 1.1. The site is located to the east of the Phibsborough road to the south of the Royal Canal at the junction with Royal Canal Bank Road. The dwellings which were to be demolished as part of the proposed development have been removed and the site is now clear of any structures. The land which slopes away from the Phibsborough Road in an easterly direction, is enclosed by a 2-metre-high hoarding and partial wire fence and is largely out of sight from the public road.
- 1.2. Development surrounding the site comprises of a mix of uses including the Bald Eagle Public house which directly abuts the site to the south, a single storey snooker hall to the west and a 2-storey residential terrace to the east of the Phibsborough Road. A number of retail and office uses are present along the Phibsborough road also. Diagonally to the north west of the site, there are three storey commercial buildings at either side of the canal.
- 1.3. Access to the site is currently obtained from the Phibsborough Road and a narrow laneway to the rear of the site provides for pedestrian access to the rear of the public house and properties to the south.

2.0 Proposed Development

- 2.1. The proposed development consists of the following:
 - Demolition of 2 no. 2 storey dwellings.
 - Construction of mixed-use development to include 9 no. apartments and ground floor retail unit.

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council determined to grant permission for the proposed development subject to standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planner's final report is consistent with the decision of the planning authority. Further information was requested in relation to the following items:
 - Overshadowing.
 - Visual Impact and sample of materials.
 - Lifecycle report for development.
 - Ownership status of laneway.
 - Drainage details and petrol interceptor.
 - Accessibility of car park, car parking management strategy, arrangements for servicing of retail unit.

3.2.2. Other Technical Reports

- Drainage Division – further information was requested as outlined above and no objections were raised upon receipt of the further information.
- Transportation Planning Division- further information was requested as outlined above, no objections were raised upon receipt of the further information.

3.3. Prescribed Bodies

Transport Infrastructure Ireland – No objections, Section 49 contributions apply.

3.4. Third Party Observations

A number of third-party submissions were received from neighbouring property owners, the issues raised can be summarised as follows:

- Number of unbuilt permissions on the site.
- Excessive height.
- Overdevelopment.
- Out of character of the area.
- Overshadowing and overlooking.
- Apartment sizes and communal space.

- Impact on public house.
- Access and insufficient parking.
- Impact on Wildlife.

4.0 Planning History

3705/18: Permission was **granted** for the demolition of the existing structures including 2 no. 2 storey derelict houses accessed off Phibsborough Road & Royal Canal Bank and for the erection of a 2.4m high painted timber hoarding to the 4no. site boundaries of the corner site.

3667/17 Permission was **refused** for the demolition of 2 no. existing derelict houses and garage and the construction of a mixed-use development of 10 no. apartments a ground level retail unit, basement car park with bike and refuse stores. The proposal was refused based on overdevelopment, excessive height, site coverage and plot ratio and unacceptable communal and private open space.

2350/07 Permission was **granted** for alterations to previously approved scheme ref 3801/05

3801/05 Permission was granted for demolition of 2 no. derelict houses and construction of 4 storey over basement mixed development with 7 no, apartments ground floor retail unit and basement car park.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

The site is located in an area zoned objective 'Z1' which seeks 'to protect, provide and improve residential amenities'.

- 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 16.10.11 Mixed-Use Development.

The site is located adjacent to the Royal Canal Conservation Area and is also located within the Phibsborough Local Environmental Improvements Plan 2017-2022.

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

The South Dublin Bay and River Tolka Estuary SPA is located c. 3.2km east of the appeal site.

North Dublin Bay SAC and Bull Island SPA are located c. 6.5km east of the appeal site also.

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**

The grounds of appeal have been prepared by G.Davenport on behalf of the owners of the Bald Eagle Public house located to the south of the appeal site. The issues raised can be summarised as follows:

- Existing established commercial uses will have an impact on the amenities of future residential units. In particular the existing public house.
- Existing laneway has been exclusively used by the Bald Eagle pub and the Snooker hall for refuse storage and deliveries and is not considered to be an acceptable entrance to the proposed development.
- The location of windows onto the laneway will result in a substandard form of development.
- No agreement has been made with the current users of the lane and the applicant in relation to future use.

6.2. **Applicant Response**

- None

6.3. **Planning Authority Response**

- None

6.4. **Observations**

- TII – Section 49 Luas Cross City Contribution Scheme Levy to be included.

7.0 Assessment

7.1. The site is subject to the Z1 zoning objective which seeks 'to protect, provide and improve residential amenities'. The principle of residential and retail development is established and permitted within this zoning objective. The demolition of both dwellings has been permitted under a separate planning application refer 3705/18 which has been enacted and completed. I therefore consider that the relevant issues in determining the current appeal before the Board can be summarised as follows:

- Suitability of site for residential use.
- Orientation of habitable windows over laneway and access to daylight.
- Adequacy of open space.
- Access arrangements.
- Appropriate Assessment
- Other Matters.

Suitability of site for residential use.

7.2. It is contended by the appellant that the appeal site which directly abuts the Bald Eagle Public house, is not a suitable location for residential development. Concerns have been raised by the appellant in relation to the outdoor seating area to the rear of the building and the continued use of this element of his business once the development is complete. It is stated that the existing public house would have an impact on the residential amenity of future residents by virtue of noise disturbance and as such the redevelopment of the appeal site for residential purposes should not proceed.

7.3. The Dublin City Development Plan 2016-2022 within Section 16.10.11 recognises that to create a vibrant city, it is important that development accommodates a mix of uses. In considering proposals for mixed-use developments, the protection of amenity and the reduction in potential conflict between the various uses will be of paramount importance. Development proposals in such circumstances where there is a potential for noise disturbance must include measures to reduce noise levels between the different uses to ambient noise levels and enhance security. A scheme of sound/acoustic insulation is required to accompany planning applications for such development.

7.4. No such scheme has been submitted by the developer. Whilst I acknowledge that it is commonplace for uses such as public houses and residential developments to

coalesce within such city centre locations, it is necessary nonetheless, in the case of new builds, to ensure that adequate acoustic insulation is provided in order to protect the amenities of future residents and to also, in this instance, protect the economic viability of the existing public house.

- 7.5. Thus, having regard to Section 16.10.11 of the Dublin City Development Plan 2016-2022, and in the absence of any noise insulation scheme, the applicant has failed to demonstrate that the amenities of future residents, in terms of noise disturbance, have been adequately protected within the fabric of the development. In failing to do so I consider the proposed development to be contrary to the provisions of the Development Plan in this regard. If the Board is of a mind to grant permission, I recommend that a noise insulation scheme is sought which includes measures to reduce noise levels between the different uses to ambient noise levels.

Orientation of habitable windows over laneway and access to daylight

- 7.6. It is stated by the appellant that the existing laneway to the rear of the site is currently used by both the Bald Eagle public house and the Snooker club as a refuse and keg storage area and delivery access. The appellant thus contends that the placement of opaque bedroom windows directly adjacent to this laneway would result in a substandard form of development for future residents, given the level of activity and the particular uses established within the laneway.
- 7.7. I noted at the time of site inspection that the width of the laneway in question is less than 2 metres and commercial refuse bins were present and in use. To provide the only source of ventilation to a bedroom in such close proximity to a commercial refuse bin storage area, were the potential for strong and pungent odours is high would result in a significantly substandard form of development with significant reductions in the quality of residential amenity for occupants. I therefore do not consider the proposed layout with single aspect bedroom windows overlooking a laneway utilised for such purposes.
- 7.8. Furthermore, I note that the proposed ground floor bedroom window is facing directly onto this narrow laneway, with the western elevation of the existing snooker hall less than 2 metres from it. The Dublin City Development Plan 2016-2022 under policy CC4 encourages building layout and design which maximises daylight and requires residential development to be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011). This document gives minimum values for the average daylight factor

(ADF) required in dwellings. The percentage required for a kitchen is 2%, for a living room 1.5%, and for bedrooms 1%. Given the proximity of the ground floor bedroom windows to the western elevation of the snooker hall, and the orientation of the building at this elevation, I do not consider that the required daylight factor can be achieved for this ground floor bedroom. The proposed layout for this ground floor unit is therefore of particular concerns in term of the poor quality of residential amenity to be provided for future residents.

- 7.9. The proposed living rooms and kitchens are to be dual aspect with main views and balconies overlooking the Royal Canal and secondary windows along the eastern and western elevations. I consider daylight levels to these rooms to be adequate in the context of the BRE report 2011. However, I note that all the bedrooms with windows along the eastern elevation are served by opaque glazing and whilst those above ground floor have adequate access to daylight, no outlook is afforded from these windows. I consider that the provision of fully opaque windows with no outlook available to residents within these rooms which open out onto a narrow lane utilised for commercial refuse storage to be unacceptable. The proposed layout of these bedrooms by virtue of this lack of outlook and proximity to the commercial refuse storage area would result in a significantly substandard and oppressive level of accommodation and would provide for an overall poor standard of amenity for future residents.
- 7.10. Overall, the proposed floor plan layout in terms of the bedroom location is not acceptable by reason of the lack of outlook and the potential for odours arising from the proximity of the windows to the commercial refuse storage. Of particular concern, as mentioned above, is the bedroom of the ground floor unit which would open directly onto the lane adjacent to the existing refuse bins.
- 7.11. Whilst I consider the site to be adequate in terms of location and size to accommodate a residential development, I consider that a more appropriate layout can be achieved within the site which provides for a greatly improved level of amenity for future residents. If the Board is of a mind to grant permission, I recommend that further information is sought in relation to revised layouts which provide for adequate outlook and ventilation to all rooms including bedrooms.
- 7.12. Any revised layout should address the potential to overlook the adjacent snooker hall site. Restricted separation distances at the eastern elevation necessitate an innovative design solution in order to prevent any adverse impacts upon the snooker hall site and the potential to redevelop this site in the future.

Adequacy of open space

7.13. Appendix I of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018 requires the following standards to be provided in terms of private amenity space:

Studio	4sqm
One bedroom	5 sqm
Two bedroom (3 persons)	6 sqm
Two bedroom (4 person)	7 sqm
Three bedroom	9 sqm

7.14. The balcony areas of the proposed development are largely in compliance with these standards and are considered to be adequate in terms of area. In addition, it is proposed to provide c. 56 sqm of communal open space in the form of 2 terrace areas, 51 sqm is required as per the guidelines.

7.15. I am satisfied that the applicant has provided for the requisite levels of both private and communal open space within the development.

Access arrangements.

7.16. It is contended by the appellant that the proposed pedestrian access arrangement from the existing laneway is unsuitable due to the established use of the laneway for refuse bin storage and delivery activity. Whilst I note the appellant's concerns, I note that the applicant in response to the further information request stated that he has a right of way over this laneway known as McGuinness Laneway.

7.17. The use of the laneway is largely a legal matter and is not one that the Board can finally determine. Section 34 (13) of the Planning and Development Act, states that the granting of permission does not entitle a person to carry out development and covers the eventuality that the development cannot be implemented for legal reasons.

7.18. I note, that the vehicle entrance is to be accessed directly from the Royal Canal Bank Road and will access a basement car park via a ramped entrance, to provide 4 no. parking spaces. The area of the proposed basement car park is limited and only provides for c. 3.8 metres from rear to rear of opposing parking spaces. I do not consider that the proposed parking arrangement allows for sufficient space for cars to

manoeuvre adequately and with ease. Difficulty parking cars as a result of the restricted size of the car park and conflicting inward and outward movements from the narrow entrance could result in queuing along the Royal Canal Bank Road.

- 7.19. Having regard to the foregoing and based on the information submitted, I am not satisfied that the applicant has adequately demonstrated that vehicles can manoeuvre with ease and without creating a traffic hazard for users of Royal Canal Bank Road. The proposed development is therefore not considered to be acceptable in this regard.
- 7.20. It is of importance to note that carparking requirements within the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018, state that in larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. This policy position is particularly relevant to the appeal site, notwithstanding, the provision of a retail unit within the development. The proposal is located in a highly accessible area adjoining the city core. Any future application should therefore consider the removal of carparking from the scheme, or a reduced number in order to prevent any traffic hazard along Royal Canal Bank Road.

Appropriate Assessment

- 7.21. 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.

Conclusion

- 7.22. In conclusion, the proposed development by virtue of the lack of outlook for bedrooms along the eastern elevation, the proximity of these bedroom windows to the narrow lane which is utilised for commercial refuse storage and the lack of daylight to the ground floor bedroom window would result in a substandard form of development for future residents which is contrary to both the provisions of the Dublin City Development Plan 2016-2022 and the Sustainable Urban Housing: Design Standards for New Apartments Guidelines, 2018.
- 7.23. In addition, due to the restricted nature of the proposed basement car park, I consider that the proposed development would give rise to a traffic hazard for road users along

the Royal Canal Bank Road and as such is considered to be contrary to the proper planning and sustainable development of the area.

8.0 Recommendation

8.1. Having regard to the foregoing assessment I recommend that the proposed development is refused for the following reasons:

9.0 Reasons and Considerations

1. The proposed development, which restricts any outlook to bedrooms within the eastern elevation by reason of the use of fully opaque glazing, and where the only source of direct ventilation to these rooms is directly adjacent to a commercial refuse storage area would result in an oppressive and substandard form of accommodation for future residents. The proposal would provide for a poor standard of amenity for future residents and would be contrary to the policies and objectives of the Dublin City Development Plan and the Sustainable Urban Housing: Design Standards for New Apartments Guidelines, 2018, which seek to promote the provision of quality apartments and to ensure that apartment living is an increasingly attractive and desirable housing option. The proposed development would therefore fail to provide an adequate standard of residential amenity for future residents and would be contrary to the proper planning and sustainable development of the area.
2. The proposal would provide for a residential development directly abutting an existing public house that incorporates an outdoor seating area within its site. Section 16.10.11 of the Dublin City Development Plan 2016-2022 requires in considering proposals for mixed-use developments, the protection of amenity and the reduction in potential conflict between the various uses will be of paramount importance, all proposals must include measures to reduce noise levels between the different uses to ambient noise levels, a scheme of sound acoustic insulation is required to be submitted with such planning applications, this is reasonable. Based on the information provided, the applicant has failed to adequately demonstrate that the proposed development can provide for adequate levels of residential amenity for future residents with regard to a reduction in noise levels and has therefore failed to comply with the requirements of Section 16.10.11 of

the Dublin City Development Plan 2016-2022. There proposal would therefore be contrary to proper planning and sustainable development of the area.

3. Based on the information provided and the limited size of the proposed basement car park, which provides for a single lane access from the public road, it is considered that the applicant has failed to clearly demonstrate that vehicles can manoeuvre in such a manner so as not to negatively impact the free flow of traffic on the adjacent public road. The proposed development could therefore give rise to an unacceptable traffic hazard along Royal Canal Bank Road and as such would be contrary to the proper planning and sustainable development of the area.

Sarah Lynch
Planning Inspector

30th July 2019