



An  
Bord  
Pleanála

## Inspector's Report ABP-304594-19

### Development

Demolition of the existing buildings.

Construction of a three-storey building with provision for two, three bed apartments along with balconies and two 'garaged' carparking spaces and cycle and refuse storage space, a courtyard to the front and access from Lower Mount Pleasant Avenue and Richmond Hill.

### Location

25 Lower Mount Pleasant Avenue & corner at Richmond Hill. Rathmines, Dublin 6.

### Planning Authority

Dublin City Council

### P. A. Reg. Ref.

4501/18.

### Applicant

Roy Turner

### Type of Application

Permission.

### Decision

Grant Permission

### Third Party Appellants:

1. Brian Corrigan
2. Susan White.

### Date of Site Inspection

21<sup>st</sup> August, 2019

### Inspector

Jane Dennehy.

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## 1.0 Site Location and Description

- 1.1. The site which has a stated area of 147.7 square metres and it is that of a two-storey fire damaged building at the corner of Mount Pleasant Avenue Lower and Richmond Hill in which the ground floor was formerly in retail use ('Cullens') and the upper floor in residential use. A derelict garage structure and a forecourt to the front is located at the corner frontage of the site. Abutting the north side is a two-storey house subdivided into two dwelling units. (Nos 26 and 26A) A small yard is located at the rear of this house and the application site. Corrigan's a public house, (Nos 27 and 28) a three storey Edwardian redbrick faced building is located on the north side of the two-storey house. It is abutted, at No 28A which as at the corner of Bessborough Parade by a contemporary building.
- 1.2. On the opposite, east side of Lower Mount Pleasant Avenue there are two storey houses fronting onto the footpath and the rear boundaries of properties on Mountpleasant Square. Pedestrian entrances are located in these boundary walls which enclose the rear gardens of these properties. On the south side of Richmond Hill there are nineteenth century houses setback behind front gardens. To the west side of the application site on Richmond Hill there is three storey terrace of dwellings (Richmond Manor) which appears to be of 1990s' construction.

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for amendments to the prior grant of permission under P A. Reg. Ref. 2382/18 details of which are available under Planning History in subsection 4 below:
- demolition of the existing buildings, the stated floor area of which is 175.6 square metres. It is stated in the application that the use of the premises ceased on 5<sup>th</sup> March 2017 and,
  - construction of a three-storey building with provision for two, three bed apartments along with balconies and two 'garaged' carparking spaces and cycle and refuse storage space. A courtyard is to be located at the Mountpleasant Avenue frontage off which vehicular access is to be provided.

The total stated gross floor area is 285.4 square metres, the stated plot ratio is 1.9 and the stated site coverage 78.9 square metres. The stated floor area of the apartments are 131.8 square metres and 138.5 square metres

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Further to issue of a multiple item request for additional information regarding the proposed design, form, fenestration and materials to which a response was received from the applicant's agent the planning authority decided by order dated, 8<sup>th</sup> May, 2019 to grant permission subject to conditions of a standard nature and one additional requirement under Condition No 3 for restoration and for obscure glazing to be fitted to a first floor west facing window for reasons of protection of residential amenity.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Officer.**

The planning officer indicated satisfaction with the revised proposals shown in the further information submission and indicated a recommendation to grant permission subject to conditions.

##### **3.2.2. Other Technical Reports**

The reports of the drainage division and the transportation planning Division indicate no objection to the proposed development subject to conditions of a standard nature.

#### **3.3. Third Party Observations**

Issues of concern raised in the submissions lodged with the planning authority relate to: excessiveness in height, scale, plot ratio and overdevelopment, adverse visual impact and overbearing impact relative to existing development particularly the architectural heritage value and character of the surrounding built environment and, exacerbation of obstruction of traffic and demand for parking.

## 4.0 Planning History

**P. A. Reg. Ref. 2382/18:** Permission was granted for material alterations to the ground floor providing for change of use and incorporation of the ground floor retail space and storage space into the residential use of the existing house along with a screened first floor level garden at the rear. (The current application is for permission for modifications to this grant of permission.)

**P. A. Reg. Ref. 3645/15/PL 246213:** Further to appeal permission was refused for change of use and incorporation of the ground floor retail space and storage space into the residential use and construction of a four storey block with three apartments for reasoning related to height, scale, design proximity to boundaries, visual obtrusiveness and overbearing impact in relation to the surrounding development and in particular the 1910 building at the corner of Bessborough Parade and Mountpleasant Avenue Lower (Corrigan's' public house.).

## 5.0 Policy Context

### 5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site location is within an area subject to the zoning objective: Z1: *"to protect, provide and improve residential amenities"*.

Guidance and standards for residential quality in apartment developments are set out in section 16.10.1.

Guidance and standards for infill developments are set out in section 16.10.10. and Objective QH 8 provides for higher density development which respects the character of surrounding development on vacant or under-utilised sites.

### 5.2. Strategic Guidance:

Development plan policies, objective and standards are superseded by the guidance and recommendations and standards within strategic guidance issued further to the National Planning Framework providing for sustainable consolidation and intensification of development as appropriate in serviced urban areas.

*"Urban and Building Heights: Guidelines for Planning Authorities"* (2018) and,

*“Sustainable Urban Housing – Design Standards for New Apartments: Guidelines for Planning Authorities.” (2018) refer.*

## 6.0 The Appeals

6.1. There are two third party appeals, each of which is outlined below:

### 6.2. **Brian Corrigan.**

6.2.1. An Appeal was received from ODKM Architects on behalf of Brian Corrigan, owner of the adjoining property at No 26 Lower Mount Pleasant Avenue on 4<sup>th</sup> June, 2019. It is stated that there is no objection in principle to the redevelopment of the site. The objections to the current proposal which are accompanied by diagrams and photographs in the submission are outlined below:

- The proposal is a gross overdevelopment of an infill site in scale, massing and three storey height and visually incompatible with the built environment and it is inconsistent with the setback from the footpath of the building line, on Richmond Hill. It should be stepped back from the street so that it is consistent with the building line of Richmond Hill.
- No 26 Lower Mount Pleasant Avenue would be dwarfed and its access to light and sunlight would be obstructed. The development proposal detracts from the adjoining Victorian building. (Corrigan’s.) No 26 Lower Mount Pleasant Avenue would be sandwiched between it and the proposed building and this is incongruous. The redesign in the further information submission does not overcome the concerns about the elevational transition. The impact would negatively detract from the streetscape and would affect property value. Should permission be granted it is requested that a condition be attached in which there is a distinct separation from the two storey houses thus enhancing the streetscape as opposed to detracting from it. (An illustration of the contiguous elevation is provided)
- The proposed development would be overbearing on the open character of the junction and the transition experienced by pedestrians which corresponds with the walkway from the arch to Mountpleasant Square between Ranelagh and Rathmines would be compromised.

- The firsts floor windows of houses on Mountpleasant Square would be overlooked from the windows and terraces at first and second floor levels.
- The established active street frontage and passive surveillance would be lost.
- It is erroneous for development in excess of the site coverage standards (78.9%) for 'Z1' zoned lands to be allowed as all development is close to public transport.
- It is requested that it be ensured that the roof top is not usable as a roof garden. A roof plan should have been included with the application to clarify this issue and as to any access to the roof.
- The applicant's property would be rendered unusable throughout the demolition and construction stages and could be exposed to the elements.
- The proposed development would contribute to traffic hazard. There is no sightline analysis. The entrances which must be reversed out of are close to the junction and no mitigating measures. There minimal visibility of oncoming traffic and pedestrians due to parking on Mountpleasant Avenue and Richmond Hill. restricted in size and there is inadequate turning space resulting in vehicles mounting the footpath.

### 6.3. **Appeal by Susan White**

An appeal was received from Ms White of No 27 Mount Pleasant Square on her own behalf on 4<sup>th</sup> June, 2019 who states that her property faces the site of the proposed development and that it would be positioned at eight metres from the rear entrance of her property. She also states that the development permitted under P. A. Reg Ref 2382/18 is acceptable to her. Her objections to the current proposal are outlined below.

- The established building line has been disregarded and the three-storey height interferes with the legibility of the 1910 building.
- Footpaths are narrow and there is a lack of green space or trees.
- The proposed development is in material contravention of development plan provisions in chapter 11 which provides for retention of established street patterns within historic areas. Reference is made to the proximity of the application site to the Georgian Square, to the 1910 building, (Corrigan's

public house) and as to adverse impact by the proposed three storey development on architectural heritage. A two-storey building would not interfere with the legibility of the 1910 building.

- The second-floor level balcony on the east elevation would overlook the interior of the appellant's dwelling and its garden. This garden would also be overshadowed by the development which would adversely affect the appellant's reliance on garden light for her occupation in that she works from her home. Several properties would be overlooked from the proposed balconies. The necessity for inclusion of the balcony is questioned because provision is made for a communal garden.
- An additional carport, close to the junction would compromise public safety at the junction which is in a congested area.

In addition to the objections set out in her appeal, Ms White queries confirmation of a land swap in relation to lands at No 26 and requests that the matter be clarified.

#### **6.4. Applicant Response**

A response to the appeals was received from the applicant's agent, AKM Design on 1<sup>st</sup> July, 2019 according to which:

- The site has a positive planning history having regard to the grant of permission under P. A. Reg. Ref. 2382/18 and the current proposal seeks to amend the permitted development.
- The current proposal for two apartments is consistent with the site coverage and footprint of the existing buildings. The apartments are dual aspect, and have private and communal open space, and adequate storage cycle and car parking.
- The plot ratio and site coverage, (which is the same as that of the existing buildings) and 9.2 metres accord with development plan standards and deemed acceptable by the planning officer.
- The, scale and bulk and the height are appropriate to the character of the area is set by three storey historic buildings and duplexes.



- The building line is respected in that the existing footprint is followed in the proposed development. The bulk was reduced in providing for the upper floor setback in the further information submission and the appellant argument in this regard is rejected.
- The fenestration was reduced in size in the further information submission although corner infill sites have greater capacity to accept visually expressive design. The selected materials of stone, Hampton brick and alu-clad fenestration and doors with standing seam metal cladding at roof level integrates the building into the streetscape and breaks down the overall massing.
- The application accords with the NPF's promotion of densification in cities and re use of brownfield lands.is an appropriate response to the consolidation and densification which is encouraged at appropriate locations in the city according to *Building Heights: Guidelines for Planning Authorities*” (2018). It sets good precedent and is a visual improvement in the streetscape and does not injure visual amenity of property in the vicinity.
- The setbacks at the second-floor level at the boundary with No 26 shown in the further information submission prevents any overshadowing. He submitted sunlight and daylight analysis demonstrate that obstruction of light is not at issue and that the development accords with section 3.2. of BRE 209. *Site Layout Planning for Daylight Sunlight Guide: A guide for Good Practice* (1991) The annual probable Sunlight Hours expressed as a percentage on the neighbouring properties is at minimum of 40% in wintertime and 50% annually. According to the analysis the rear yard of No 26 Mountpleasant Avenue Lower is receiving only 38% of sunlight on 21<sup>st</sup> March and the remaining 62 is obstructed be existing walls. The minimal overshadowing offering is for two hours on 21st March and on passing at 13.30 hrs no further overshadowing from the proposed development on the backyard is attributable to the proposed development.
- Overlooking of Ms White's property would not occur, and her contentions are rejected. In the revised design in the further information submission the north facing kitchen window for unit A is omitted. (The west facing window

replaces it.) The requirements of Condition No 3 ensures avoidance of overlooking from the first floor west facing window.

- The private terraces do not give rise to overlooking owing to the positioning in line with the existing building line and the set back from adjoining development and providing for front open space. The doors and windows are orientated towards the street to prevent overlooking of properties but to provide passive surveillance over the public realm.
- There is no intention to provide for a roof garden and a sedum roof is proposed as shown on drawing 1704.PL07.
- Access and egress will not cause traffic hazard. There is an existing vehicular entrance to the site close to the junction and the proposed carparking arrangement are an improvement on the current arrangement. This is confirmed in the report of the traffic planning division in which it is also stated that on street parking spaces will not be reduced. The development is minor, and the parking spaces are located at the maximum distance from the junction.

#### **6.5. Planning Authority Response**

There is no submission from the planning authority on file.

#### **7.0 Assessment**

- 7.1. There are two third party appeals against the decision of the planning authority. The issues raised in one or both of the appeals and considered below are:

Nature of Use and Passive Surveillance of the Public Realm.

Design, Mass, Scale and Impact on Architectural Character of the Area.

Overshadowing.

Overlooking

Traffic Safety and Convenience and Parking

Environmental Impact Assessment Screening.

Appropriate Assessment Screening.

## **7.2. Nature of Use and Passive Surveillance of the Public Realm.**

7.2.1. There is no objection to the substitution of two residential units for the former retail use (at ground level) having regard to the acceptance of a proposal for change of use in the decision the prior application and having regard to the zoning objective and the established characteristics of the area. A requirement for passive surveillance beyond and above that which would be consistent with single use residential development at the site is unwarranted.

## **7.3. Design, Mass, Scale and Impact on Architectural Character of the Area.**

7.3.1. The corner site is prominent and is in the foreground of the gable end of the three storey Edwardian building housing Corrigan's pub within the row of buildings between Richmond Hill and Bessborough Parade. The gable end which of the public house which is of interest in the streetscape views on approach along Lower Mountpleasant Avenue would be obscured by the proposed development. However, in its contemporary form, and its design, footprint, heights and the selection of materials and finishes the proposed development would contribute positively as a corner and bookend feature to the streetscape of Richmond Hill and the row of buildings on Lower Mountpleasant Avenue extending as far as Bessborough Parade from the Richmond Hill junction at the southern end.

7.3.2. The corner site has the capacity to accept the proposed building and it would not unduly undermine the prominent and historic landmark feature of the Edwardian building in the streetscape. It is not accepted that the site coverage, which does exceed the maximum in the indicative range for Z1 zoned lands in the CDP, plot ratio or mass and bulk and three storey elements are excessive to this end, as asserted in the appeals.

7.3.3. The proposed development would constitute a distinct and visually positive replacement building at the corner which contrast with but is compatible with the two-storey building at No 26 which in turn contrasts with and is subordinate to the and the landmark Edwardian building. It is considered that there is no necessity for there to be a requirement for a break or separation from the two-storey building at No 26 Lower Mountpleasant Avenue as advocated in one of the appeals.

7.3.4. The assertion in the appeal by the occupant of No 27 Lower Mountpleasant Square as to overbearing impact on the Lower Mountpleasant Square properties is not

accepted. These houses are located to the west side of long rear gardens, the boundaries of which are on the frontage of the opposite side of the Lower Mountpleasant Avenue. The separation distances of the footprint of the dwellings from the site boundary of the proposed development is not less than thirty metres with the appellant's property at No 27 Lower Mountpleasant Square being opposite No 26 the adjoining property to the north side as opposite to the application site.

#### **7.4. Overshadowing.**

- 7.4.1. With regard to overshadowing, it is noted that the proposed building which is higher and larger than the existing is to the south, south west of the No 26 Lower Mountpleasant Avenue and the immediate concern would be as to access to light and sunlight at the rear to the interior space of the two dwelling units. It appears, based on the applicant's submissions that it is established that the development as proposed would not diminish the predevelopment sunlight and daylight for No 26 Lower Mountpleasant Avenue access to a degree which would be unacceptable have regard to the guidance and standards set out in *Site Layout Planning for Daylight Sunlight Guide: A guide for Good Practice* (1991) BRE 209.

#### **7.5. Overlooking.**

- 7.5.1. With regard to potential for overlooking, it is agreed that the balconies at first floor and second floor level on the east elevation overlooking Lower Mountpleasant Avenue could give rise to overlooking and perceptions of overlooking of the rear gardens of the properties on Mountpleasant Square opposite the site. However, this potential impact can be satisfactorily mitigated, should permission be granted by a condition with a requirement for by opaque glazed screening on the east side of the balconies to a height of 1.6 metres. No such screening would be warranted on the south facing elevation overlooking Richmond Hill and the historic houses on the opposite side which are set back behind deep front gardens. It is noted that a requirement for opaque glazing was included in a condition attached to the planning authority decision for the first floor west facing window in order to protect the amenities of the adjoining property.

#### **7.6. Traffic Safety and Convenience and Parking.**

- 7.6.1. The trip generation and demand for on street parking by two residential units is very favourable relative to the former development whereby the retail use associated with

the former newsagents would have generated significant trips and demand for casual parking. Furthermore, the vehicular access for the, now ceased use on the site has been immediately adjacent to the junction of Richmond Hill and Lower Mountpleasant Avenue.

7.6.2. Mountpleasant Avenue Lower is narrow in width, has limited pedestrian facilities due to the narrow footpath and there is no on street parking available along Mountpleasant Avenue in the vicinity of the site on either side of the road whereas there is on-street parking on Richmond Hill and Bessborough Parade. To this end, it is considered desirable and reasonable for on-site parking, at one space per unit to be provided in order to ameliorate demand for on street parking generation by the proposed development.

7.6.3. The positions for the vehicular entrances are at distance of circa ten metres from the junction which is a considerable improvement on the existing arrangement and this allows for sight towards the entrances by traffic on approach and by vehicles entering and exiting from the entrances. Furthermore, the road alignment and junctions, ensure that attainable speed is very restricted.

7.6.4. In view of the foregoing, it is not considered that the proposed development would give rise to undue adverse risk to public safety by reason of obstruction and conflicting traffic movements or other hazards, subject to an expectation of due care by all road users.

#### **7.7. Environmental Impact Assessment Screening.**

7.7.1. Having regard to the nature of the proposed development and its location on a brownfield site in an inner suburban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

#### **7.8. Appropriate Assessment Screening.**

7.8.1. Having regard to the nature of the proposed development and, to the brownfield site in a serviced inner suburban area, no appropriate assessment issues 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. In view of the foregoing, it is considered that the proposed development is acceptable and consistent with national policy and strategic guidance and the CDP provisions and that the planning authority decision to grant permission should be upheld, subject by condition to the additional requirement, for screening of the balconies to ameliorate the potential for overlooking of the rear gardens of the properties at Mountpleasant Square on the opposite side of Lower Mountpleasant Avenue. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area

## 9.0 Reasons and Considerations

Having regard to:

- the Dublin City Development Plan 2016-2022 according to which the site is within an area subject to the zoning objective Z1: *“To protect, provide for and improve residential amenities”*;
- to the provisions of the *Sustainable Urban Housing - Design Standards for New Apartments – Guidelines for Planning Authorities*, issued by the Department of the Environment, Community and Local Government in in 2018, and,
- to the extant planning history for the site,

It is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities, historic architectural character and established pattern and layout of existing development and the residential amenities of property in the vicinity, the proposed development, would be acceptable in terms of pedestrian and traffic safety and convenience and would 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 lodged with the planning authority on 12<sup>th</sup> April, 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 following requirements shall be provided for and adhered to in the development:
  - (1) The west facing widow at first floor level for the utility store room shall be fitted with obscure glazing and with a top opening panel only.
  - (2) Obscure glazing screens to a minimum height of 1.8 metres shall be erected and maintained in position along the east facing sides of the first-floor balcony and second floor terrace.
  - (3) Access to the sedum roofs shall be restricted to access for maintenance purposes only.

Revised drawings shall be submitted to and agreed in writing with the planning authority prior to the commencement of the development.

**Reason:** In the interests of clarity and the protection of the residential amenities of the rear gardens of the properties on Mount Pleasant Square on the east side of Lower Mount Pleasant Avenue.

3. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

**Reason:** In the interest of visual amenity.

4. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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.

5. Water supply and drainage arrangements, including the attenuation and 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.

6. 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.

7. 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.

**Jane Dennehy,**  
Senior Planning Inspector  
21st August, 2019.