



An
Bord
Pleanála

Inspector's Report

ABP-304691-19

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| Development | Demolition of a garden wall and the construction of a new house. |
| Location | Vacant site at Le Vere Terrace (future No. 14), Rear of 4, Armstrong Street, Harold's Cross, Dublin 6. |
| Planning Authority | Dublin City Council South |
| Planning Authority Reg. Ref. | 2627/19 |
| Applicant(s) | Folio Homes Limited |
| Type of Application | Permission |
| Planning Authority Decision | |
| Type of Appeal | Third Party |
| Appellant(s) | Eilis Davey |
| Observer(s) | William Brennan & Eleanor Garvey |
| Date of Site Inspection | 5 th September 2019. |
| Inspector | Irené McCormack |

1.0 Site Location and Description

- 1.1. The appeal site is located within a residential area of Harold's Cross on the south side of Dublin City. The appeal site is a vacant infill site located on the northern side of Le Vere Terrace, to the rear of no. 4 Armstrong Street. Le Vere Terrace is a small cul de sac containing a terrace of single storey dormer dwellings, two rear domestic garage type structures and a terrace of four single storey workers cottages on the south side of the lane.
- 1.2. The site measures 3.790m wide by 12.180m deep and is 51sqm in area. The site is bound to the west by a similar proportioned dormer type dwelling finished in brick and by a flat roofed domestic garage to the east.

2.0 Proposed Development

- 2.1. The development will comprise:
 - The demolition of an existing garden wall with gate;
 - The construction of a new part single part two storey dwelling with pitched roof to the two-storey section including 2 no. roof lights to the rear and dormer window to front and parapet flat roof to single storey to the rear; and,
 - All ancillary site works.
- 2.2. The proposed dwelling is a contemporary design dormer type dwelling consisting of a large first floor box dormer window, ground floor window and door on the front elevation, finished in brick. The dormer roof on the front elevation splits into a pitched roof over the rear return element and sits perpendicular to the main roof to the rear. A single storey rear annex extends a further 2.9m at ground floor level. A large wall of opaque glazing with timber louvers is proposed a first-floor level on the rear elevation. The floor area of the dwelling is 47sqm in area with a maximum ridge height of 6.2m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority granted permission subject to 8 conditions. The following condition is of note:

C3 Stipulated:

The window at first floor level on the rear elevation shall be permanently glazed with obscure glass.

Reason: In the interest of residential amenity and the proper planning and sustainable development of the area.

C4 (d) Stipulated:

The following requirement of the Engineering Department – Drainage Division shall be strictly adhered to:

(d) The Developer shall ensure that an appropriate Flood Risk Assessment, in accordance with the OPW Guidelines and the Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment, is carried out for the proposed development.

Reason: To ensure a satisfactory standard of development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer reflects the decision of the planning authority. The Planning Officer notes the zoning objectives for the area and that the dwelling is acceptable in terms of design and scale and in accordance with Section 16.10.2 of the Development Plan relating to Residential Quality Standards and Section 5.3 'Internal Layout and Space provision' contained in the then DEHLG 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007).

3.2.2. Other Technical Reports

Drainage Department- No objection subject to compliance with standard conditions as set out in report dated 29th April 2019, to include an Appropriate Flood Risk Assessment.

3.3. **Prescribed Bodies**

None

4.0 **Planning History**

Site

None

Surrounding

None

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. The site is zoned Z1 with an objective “to protect, provide and improve residential amenities.”

5.1.2. Dublin City Council’s policy regarding such developments is set down in the Dublin City Development Plan 2016-2022.

Chapter 5 of the Development Plan specifically relates to housing. Policy QH5 seeks to promote residential development addressing any shortfall in housing provision to active land management and a coordinated planned approach to developing appropriately zoned land at key locations including regeneration areas, vacant sites and underutilised sites.

Policy QH8: To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

Section 16.10.2 Residential Quality Standards – Houses Section 16.10.10: Infill Housing “Having regard to policy on infill sites and to make the most sustainable use of land and existing urban infrastructure, the planning authority will allow for the development of infill housing on appropriate sites. In general, infill housing should comply with all relevant development plan standards for residential development;

however, in certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land in the inner and outer city is developed.

Infill housing should:

- Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings,
- Comply with the appropriate minimum habitable room sizes
- Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.”

Chapter 16 of the development plan sets out details of development standards. Standards are contained for minimum floor areas for dwellings, requirements for natural lighting and ventilation, private open space standards, safety and security and acoustic privacy. These standards will be referred to where relevant in my assessment below.

Parking: Area 3 applies to the appeal site. 1.5 car parking space is required per residential unit. Parking provision below the maximum may be permitted provided it does not impact negatively on the amenities of surrounding properties or areas and there is no potential negative impact on traffic safety.

5.1.3. **National Policy and Guidelines**

Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009)

DEHLG ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007).

5.2. **Natural Heritage Designations**

5.2.1. There are no natural heritage designations within the vicinity of the site.

5.3. EIA Screening

Having regard to the nature and scale of the proposed development, the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal, as submitted by the third-party appellant residing at No.6 Armstrong Street, Harold's Cross, Dublin 6, are as follows:

- The permission granted by Dublin City Council on the 22nd May 2019 did not satisfactorily reference the concerns highlighted, or development standards ignored as outlined in their observations made to the planning authority.

The following is a summary of the original observations made to the planning authority by the appellant on 30th April 2019.

- Notwithstanding previously approved development, minimum room sizes, private open space and parking standards need to be applied in accordance with the Dublin City Development Plan 2016—2022 and the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018
- The proposed development is not in accordance with the proper planning and sustainable development of the area and would be injurious to the residential amenity of the original terrace of dwellings on Armstrong Street, in particular dwellings 2, 4 and 6.
- The proposal is considered to be overdevelopment of a restricted urban site.

- Request that the applicant be required to significantly reduce the development and comply with the Development Plan standards and the standards referenced in the Department of Housing Guidelines 2018.
- The proposed site coverage would be approximately 80%, which is excessive and should be reduced in line with the Development Plan requirements of 40-60%.
- The proposal does not meet the standards outlined for mews housing developments in the Development Plan.
- No parking is proposed, and this would be contrary to development plan standards.
- The development could impact on the residential amenity and privacy for residents on Armstrong Street. The proposed development does not have a separation distance of 22m between the rear of the development and adjoining 2 storey dwellings on Armstrong Street, in particular no. 4 Armstrong Street, as the rear first floor window is less than 11m from the rear of no. 4.
- It is stated that a number of roads in the Harold's Cross area were flooded including 4, Armstrong Street and the rear site in October 2011. The proposal does not provide design features to deal with this flooding history, such as green roof, permeable paving, biodiverse planting and improving run off in the area.
- The width of the dining room is 3.1m which is below the required 3.3m for a one-bedroom unit in accordance with the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018

6.2. Applicant Response

- It is set out that the site is a vacant and underutilised site and that the site was previously separated from no. 4 Armstrong Street.
- The site is located on a cul de sac that contains a terrace of seven dormer dwellings as well as a separate dormer to the rear of no. 2 Armstrong Street. All have been built to the rear of the terrace along Armstrong Street.
- Parking is controlled by means of on street parking along the northern side of the lane. There is no off-street parking.

- The site is 3.79m wide and reflects the width of other sites along the street. The roof height is consistent with the existing houses on the street. The floor area for a one-bedroom dwelling is in accordance with the Quality Housing for Sustainable Communities (2007).
- It is set out that the first party have no objection to obscure glazing at first floor level on the rear elevation and the requirement for a separation distance of 22m is not required having regard to the suburban context and established pattern of development.
- It is set out that the Apartment Guidelines (2018) are not relevant in this instance
- It is acknowledged that the living room is under the minimum 3.3m in width as set out in Quality Housing for Sustainable Communities (2007). This is due to the restricted site width the compliance with building standards. However, the overall floor area of the house meets recommended standards.
- The provision of 10sqm of private open space is in accordance with Section 16.10.2 of the development plan.
- The development is not overdevelopment of the site. Site coverage is indicative in the development plan and the development is consistent with the established pattern in the lane. The development plan seeks to promote densification. The location close to a high-quality bus route and the Grand Canal Green cycle route is noted.
- It is set out that the development is not a mews development. This is an established street with an already established pattern of development.
- It is set out that the addition of a one-bedroom dwelling will not result in the loss of on-street car parking to the detriment of local residents.

6.3. **Planning Authority Response**

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

6.4. **Observations**

6.4.1. One observation was received.

1. William Brennan and Eleanor Garvey, No. 4 Armstrong Street, Harold's Cross, Dublin 6. A summary of the observations raised are outlined below:

- The proposed extension is 2.525m from the rear of no. 4 Armstrong Street.
- The minimum separation distance of between first floor windows is less than 11m.
- Incorrect information has been provided by the applicant. It is set out that the site was flooded in 2011 and this is not acknowledged by the applicant.
- Plans were not available for viewing for two weeks after the planning application was submitted.
- The development will restrict sunlight and daylight to No. 4 Armstrong Street.
- The development at 80% site coverage represents overdevelopment of the site.

6.5. Further Responses

6.5.1. Appellant's Response

A further response from the appellant (third party) was received by An Board Pleanála on 6th August 2019, set out the following:

- It is submitted that the development be assessed as a mews dwelling and that this is consistent with the pattern of development at Armstrong Street, where the rear access at Le Vere Terrace is being incrementally developed.
- The development is contrary to the Z1 zoning. It is set out that the existing pattern of development reflects an area of high-density terraced houses and cottage on narrow plots with little or no private open space. However, planning standards have changed and as such the development is not acceptable. It is also set out that the external finishes would be visually disruptive.
- The site coverage at 80% is excessive in light of the pattern of adjoining development. The shortcomings in the size and usability of the private open space are noted.
- Reference is made to inconsistencies in the documentation submitted namely fenestration and roof lights and no side elevation showing the house extending beyond the rear of no. 15. La Vere Terrace.

- It is set out that the development is overbearing and the adjoining residents would suffer a material loss of sunlight and daylight.

6.5.2. **Applicant's Response**

In response to the appellants submission received by An Board Pleanála on 6th August 2019, the applicant submitted a further response to An Board Pleanála on 2nd September 2019. I have read this submission and I note that no new issues were raised.

7.0 **Assessment**

7.1.1. The assessment covers the points made in the appeal submissions, and also encapsulates my de novo consideration of the application. The main issues in the assessment of the proposed development are as follows:

- Principle of Development
- Design and Layout and Residential Amenity
- Other Matters
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. The proposal provides for the construction of a dormer type dwelling on a vacant infill site. The provision of residential development on lands zoned Z1 in the Dublin City Development Plan 2016-2022 which seeks "To protect, provide and improve residential amenities" would be consistent with the policies of the Planning Authority as set out in Section 14.1 *Zoning Principles* of the Development Plan which seek to encourage the development of underutilised and brownfield sites adjacent and close to public transport nodes.

7.2.2. It is considered that the proposed development in terms of floor area would be acceptable and in accordance with Development Plan standards and DEHLG 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007). The Planning Authority have raised no issues in this regard.

- 7.2.3. I further consider that the proposal generally complies with the requirements for in-fill developments as set out in the development plan to make the most sustainable use of land and existing urban infrastructure. The laneway serving the dwelling is of sufficient width to cater for traffic associated and the provision of off-street car parking etc. in accordance with the requirements of the development plan.
- 7.2.4. The Development Plan establishes that car parking provision maybe reduced or eliminated in areas that are well served by public transport. The proposal is well served by public transport with high capacity, frequent services available in the immediate vicinity. I also note that permit parking is available in the area. There is no issue with car parking provision on the site.
- 7.2.5. I consider that the principle of the proposed development acceptable within this zoning category, subject to the detailed considerations below.

7.3. **Design and Layout and Residential Amenity**

- 7.3.1. The proposed dwelling is located to the rear of no. 4 Armstrong Street. The site fronts onto La Vere Terrace, a cul de sac that contains a terrace of seven dormer dwellings, a number of rear domestic garages and a further dormer to the rear of no. 2 Armstrong Street adjoining the site. All located to the rear of Armstrong Terrace.
- 7.3.2. With respect to the proposed infill dwelling, Policy 16.2.2.2 *Infill Development* of the Dublin City Development Plan 2016-2022 deals with Infill development– allowing for houses that respect and complement the prevailing scale, architectural quality and the degree of uniformity in the surrounding townscape. Such development shall have regard to the building plot widths, architectural form and the materials and detailing of existing buildings, where these contribute positively to the character and appearance of the area.
- 7.3.3. It is the appellants contention that the development be assessed as a mews dwelling and that this is consistent with the pattern of development at Armstrong Street, where the rear access at Le Vere Terrace is being incrementally developed. Whilst I note that the site did previously form part of the rear garden of no. 4 Armstrong Street, the site is now an independent site. I am satisfied that the site constitutes an infill site.

- 7.3.4. Site inspection indicated that the general character of the area has been altered over time with the insertion of other infill dwellings long the lane. In my opinion the **design** of the proposed dwelling reflects the general character of the adjoining dwellings in terms of scale and mass, front building line and height. I note the contemporary approach to the fenestration and the use of a brick finish, I consider the approach an acceptable modern intervention at this location.
- 7.3.5. In terms of private open space, the minimum requirement for **private open space** provision as set out in Section 16.10.2 of the Dublin City Development Plan 2016-2022 is 10 sq.m of private open space per bed space. The development is in compliance with these standards. The rear garden measures 2.525m x 3.92m respectively and is 9.9sqm in area. I also note that the rear garden is of similar size to the rear gardens of the adjoining dwellings.
- 7.3.6. The third-party grounds of appeal assert that 80% site coverage represents **overdevelopment** of the site and will result in loss of amenity for the surrounding properties. The appellants argue that the development is not materially different to established pattern of development, I would agree. The development is consistent with Policy QH8: To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area and in accordance and with national guidance to encourage the development of infill sites and increased densities. Having regard to the prevailing density in the area, I do not consider the development represents overdevelopment of the site.
- 7.3.7. The grounds of appeal assert that the proposal will detrimentally impact on the residential amenities of neighbouring properties, as a result of potential **overshadowing, loss of light and overlooking**. The 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' and its accompanying 'Urban Design Manual' does not set rigid minimum separation distances but does require that habitable rooms and private amenity space should not be directly excessively overlooked by neighbouring residents. The opposing rear building line are consistent with the adjoining established pattern of development. Notwithstanding same, I note the rear window is a significant size and located less than 5.5m from the boundary of no. 4 Armstrong Street. The window serves for light ingress only, and in this regard, I consider it appropriate to revise the first-floor rear

window to reflect a high level horizontal window allowing for light access whilst preventing any potential and perceived overlooking. I note also that a roof light is proposed for additional light to this part of the house.

7.3.8. With regard to the issue of overshadowing and loss of light, I note the rear building line of the two storey section of the dwelling is generally in line with the established rear building line along the lane, which reflect a staggered pattern. I also note that the height of the dwelling at 6.2m is not excessive and the site aspect facing south will ensure west facing evening sun will access the rear of the site and no. 4 Armstrong Street. The development will have a negligible impact in terms of reducing daylight and sunlight. However, any reduction in sunlight penetration should be balanced against the reasonable expectation that the applicant be permitted to construct a dwelling of sufficient size to cater for appropriate living requirements. Infill dwelling of this nature located in built-up urban areas and will undoubtedly give rise to some level of increased overshadowing as a result of site development. The increased levels of overshadowing that would occur in this instance in my view would be negligible and therefore acceptable.

7.4. It is asserted in the ground of appeal that the layout does not comply with Section 5.3.2 Space Requirements and Room Sizes as set out in the Quality Housing for Sustainable Communities: Best Practice Guidelines (2007). The guidance states that the recommended minimum living room width is 3.3m. The layout provides for a living room width of 3.135m. The first party argue that this due to the restricted site width and compliance with building standards. I note the overall floor area of the house meets recommended standards. On balance, I consider this acceptable.

7.4.1. In conclusion, the proposed development cannot be considered incongruous or inappropriate in this context and in my opinion does not constitute overdevelopment of the lane.

7.5. **Other Matters**

7.5.1. The appellant and observers to the appeal refer to previous flooding on the site. I note the planning authority did not raise this matter as an issue of concern. Furthermore, I note the Engineering Department – Drainage Division of Dublin City Council raised no objection to the development subject to standard conditions and the submission of an appropriate Flood Risk Assessment. Given the infill and small-

scale nature of the development, I am satisfied that this matter can be addressed by way of an appropriately worded condition.

7.6. **Appropriate Assessment**

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

8.0 **Recommendation**

I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 **Reasons and Considerations**

Having regard to the nature and scale of the proposed development, the pattern of development in the vicinity and the policies of the Dublin City Development Plan 2016-2022, 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 and would not detract from the character of the area. 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 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 out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to commencement of development, the developer shall submit a site-specific Flood Risk Assessment, in accordance with the OPW Guidelines and the Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment, to the planning authority for written agreement.

Reason: To ensure a satisfactory standard of development.

3. The proposed development shall be revised as follows:

- (a) The first-floor rear window shall be omitted and replaced with a high level horizontal window.

Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of orderly development and the visual amenities of the area

4. Prior to the commencement of development, details of materials, colours and textures of all external finishes to the proposed dwelling shall be submitted to the planning authority for written agreement.

Reason: In the interest of visual amenity.

5. The developer shall ensure that the site is appropriately maintained, and the public road and footpath remain free of any dirt and debris during the construction phase of development.

Reason: In the interest of proper planning and orderly development.

6. 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

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity

8. 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: To protect the residential amenities of property in the vicinity of the site.

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, 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.

Irené McCormack
Planning Inspector

5th September 2019