



An
Bord
Pleanála

Inspector's Report ABP-304798-19

Development	Two three-bedroom two-storey terraced houses
Location	Site adjacent to 25a Rathdown Road, Phibsboro, Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2188/19
Applicant(s)	John Noel McGivney
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	Rathdown Road and District Residents' Association
Observer(s)	None
Date of Site Inspection	7 th October 2019
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site is located on the east side of Rathdown Road, at the intersection with Grangegorman Upper. It is accessible from the north off the North Circular Road (R101) and from the south off Grangegorman Lower and is approximately 1.5km northwest of Dublin city centre.
- 1.2. It is triangular in shape and is stated to measure 384sq.m. It currently comprises vacant ground that is overgrown with vegetation spilling out over the front boundary walls. A red-brick masonry wall divides the front and rear of the site. The adjoining property at No.25a Rathdown Road is stated to be in control of the applicant and in use as four apartments. The south side boundary onto a 4.5m-wide lane serving the rear of housing along Rathdown Road, is marked by a timber panel fence supported by concrete posts. An electricity pole sits on the front boundary of the site.
- 1.3. The surrounding area is characterised by rows of two-storey red-brick terraced houses of differing eras fronting onto gardens. The area to the west forms part of the Grangegorman campus redevelopment. Ground levels in the immediate vicinity drop steadily in a southerly direction.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - construction of two three-bedroom two-storey terraced houses with connections to local services, landscaping and associated ground works, shared pedestrian access from the front and revised boundary treatments.
- 2.2. In addition to the standard planning application documentation and drawings, the application was accompanied by an Appropriate Assessment Screening Report and a Civil Engineering Planning Report.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to grant permission for the proposed development, subject to 15 no. conditions of a standard nature, including the following:

- Condition No.6 - restriction on exempted development rights.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report of the Planning Officer (March 2019) noted the following:

- no objection in principle to residential development on the site, including the proposed density of 55 units per hectare;
- the houses would feature a slight shortfall in rear private amenity space, which is partially mitigated by virtue of the rear refuse and bicycle storage areas and the extent of front garden space;
- No.25a appears to consist of four residential units which were in situ prior to 1963. It is unclear whether or not residents of this property would lose private amenity space as a result of the proposed development;
- provision of public open space on site would not be necessary;
- a previous application relating to this site was refused permission under Dublin City Council (DCC) Ref. 2670/18, due to the visually discordant impact of the proposed three-storey building on the Z2 conservation area;
- the proposed finishes, scale and finished-floor levels are acceptable and these aspects of the design relate better to the streetscape than the previously refused development;
- further information should be requested with respect to the legal interest of the applicant in the site, the extent of open space serving No.25a and how the proposed amenity areas would be managed or incorporated into the house curtilages.

The final report of the Planning Officer (June 2019) reflects the decision of the Planning Authority. The Planning Officer was satisfied that their previous concerns had been addressed by way of the further information submitted by the applicant.

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) - no objection, subject to conditions;
- Roads & Transport Planning Division – no response.

3.3. Prescribed Bodies

- Irish Water – no response;
- National Transport Authority (NTA) – no response;
- Transport Infrastructure Ireland (TII) – section 49 supplementary Luas Cross City contributions may apply.

3.4. Third-Party Observations

- 3.4.1. During consideration of the application by the Planning Authority, a total of six third-party submissions were received, with five of these from neighbouring residents of Rathdown Road and one from the Rathdown Road and District Residents' Association. The issues raised in the submissions are similar to those also raised in the grounds of appeal and are summarised within the grounds of the appeal below.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. Pre-planning consultation between representatives of the applicant and the Planning Authority are stated to have taken place in August 2018. Matters raised during consultation referred to the need to overcome the reason for refusal of a previous planning permission on site, the need for a high-quality contemporary design and the need for sufficient open space to serve residents. The following recent planning applications relate to the appeal site:
- DCC Ref. 2670/18 – permission refused by the Planning Authority in May 2018 for a three-storey building containing five apartments, as it was considered a visually discordant development in the context of the adjoining Victorian terrace and the 'Z2-zoned' conservation area;

- DCC Ref. 2350/16 – retention permission granted by the Planning Authority in August 2016 for an external escape stairs to the rear projection of the building at No.25a.

4.2. Surrounding Sites

4.2.1. There have been numerous applications and appeals for infill developments and domestic extensions in the surrounding area, including the following:

- Doyle's Triangle, Rathdown Road – DCC Ref. 4674/18 – permission granted by the Planning Authority in May 2019 to demolish buildings on the opposite side of the service lane adjoining the southeast side of the appeal site and construct a three to four storey student residence with 44 no. bed spaces, as part of the 444 student bed spaces permitted at 274 North Circular Road (ABP Ref. PL29N.248726 / DCC Ref. 4262/16) and the 289 student bed spaces permitted at Nolan's Seafood Limited, Rathdown Road (ABP Ref. 302749-18);
- Rear of 262 North Circular Road – DCC Ref. 4682/18 – permission granted by the Planning Authority in March 2019 to demolish buildings to the rear of a protected structure, 200m to the north of the appeal site, and construct a two-storey detached house;
- Junction of Rathdown Road and Grangegorman Upper and Lower – ABP Ref. 302066-18 (DCC Ref. 2834/18) – permission granted by An Bord Pleanála in January 2019 for a revised roads layout, including car parking, bicycle parking, pedestrian paths, pedestrian crossings and road junctions, directly fronting the appeal site;
- No.51a Rathdown Road – DCC Ref. 3162/02 - permission refused by the Planning Authority in November 2002 for the demolition of outbuildings on this site 15m to the west of the appeal site to provide a four-storey building containing 12 apartments and with provision for five car parking spaces and a vehicular access off Grangegorman Upper. Reasons for refusal related to the substandard provision of parking and private amenity space, the design, bulk and height of the proposed building and the loss of parking and amenity spaces serving No.51a.

5.0 Policy & Context

5.1. Development Plan

- 5.1.1. The appeal site is situated in an area identified within the Dublin City Development Plan 2016-2022 as having a land-use zoning objective 'Z2 – Residential Neighbourhood (Conservation Areas)' with a stated objective 'to protect and/or improve the amenities of residential conservation areas'. The general objective for these lands is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.
- 5.1.2. Relevant planning policies for residential development are set out under Section 5 (Quality Housing) and Section 16 (Development Standards) within Volume 1 of the Development Plan. Amongst other National Guidelines, policy QH1 of the Plan seeks to build upon and enhance standards outlined in 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007). Policy QH21 of the Plan is relevant as this seeks 'to ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation'. Policy CHC4 aims to protect the special interest and character of Dublin's conservation areas.
- 5.1.3. Design principles for infill development are set out in Section 16.2.2.2 of the Development Plan. Design standards for houses are set out in Section 16.10.2 of the Plan, and matters to be considered in assessing proposals for corner/side garden sites and infill housing are specifically outlined under Sections 16.10.9 and 16.10.10 of the Plan. In this part of the city (area 1), a maximum of 1 car parking space per house is required based on standards within Section 16.38 of the Plan.

5.2. Environmental Impact Assessment - Preliminary Examination

- 5.2.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third-party appeal has been lodged by Rathdown Road and District Residents' Association and the grounds of appeal can be summarised as follows:

Design

- the proposed buildings would be out of character and would fail to integrate with the historic architectural quality of the Victorian-style red-brick housing forming the setting for the 'Z2' conservation area to the north;
- the Planning Authority has failed to implement policy CHC4 of the Development Plan;
- a subtle transition in the design features of the Victorian terrace to the proposed houses would not be provided for;
- a simple two-storey or three-storey building replicating elements of the adjoining housing would be more appropriate;
- the proposed roof type is not in character with the pitch roofscape to the adjoining Victorian terrace;
- precedent for refusal of the development on visual amenity grounds is provided by way of the refusal of planning permission to No.51a (DCC Ref. 3162/02);
- the proposed development should be refused for design reasons similar to those outlined in the refusal of permission under DCC Ref. 2670/18 for a three-storey apartment block on the site;
- there would be a deficiency in external private amenity space for residents;

Density

- an excessive density of development would arise, particularly when considering the four apartments contained in No.25a and the extent of student accommodation recently permitted and under construction in the immediate area;

Traffic & Parking

- lack of provision for car parking serving the new houses, within an area already under pressure for car parking;
- additional traffic would be attracted into an area already suffering from traffic congestion, which would be further compounded by the new student accommodation and education facilities;

Other Matters

- queries regarding site ownership;
- loss of soakage area for surface water drainage;
- structural concerns given the difference in levels between adjoining sites;
- health and safety concerns, in particular arising from the additional construction activity that would be attracted to the area;
- lack of consideration for local community needs.

6.2. Applicant's Response

6.2.1. The applicant's response to the grounds of appeal can be summarised:

- there is precedent for contemporary style infill developments in the area and the proposed development is clearly identifiable as a contemporary addition to the streetscape;
- as a modest intervention in the streetscape, the proposed development uses modern building techniques, roof style and materials, and responds to rather than mimics the design of the adjoining conservation area houses;
- the scale and height of the proposed houses is responsive to topographical changes and differences in building heights along the rows of terraced housing on both sides of the site;
- the quantum of the proposed development, in proximity to public transport services and on an urban infill site, complies with planning policy standards, including those relating to zoning, residential developments, infill developments and contemporary design;

- the proposed development was designed in response to consultation with the Planning Authority, following a refusal of planning permission for a three-storey apartment block under DCC Ref. 2670/18;
- the proposed development would not excessively dominate views towards the Victorian terrace when approaching from the south;
- the proposed development would add to the typology of housing in an area experiencing significant development in education facilities and student housing;
- precedent for the proposed development is provided by permissions in the area for contemporary infill houses at 262 North Circular Road (DCC Reg. 4682/18), 64 Oxmantown Road (DCC Ref. 4431/16) and 10 Grangegorman Villas (DCC Ref. 6317/06);
- the architect's design rationale for the proposed development is appended to the grounds of appeal, including reference to the key criteria that shaped the design, as well as the rationale for the materials and flat roof elements of the proposed houses.

6.3. **Planning Authority Response**

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

6.4. **Observations**

6.4.1. None received.

7.0 **Assessment**

7.1. **Introduction**

7.1.1. The principle of developing the proposed houses on an urban infill site with a zoning 'Z2 – Residential Neighbourhood (Conservation Areas)' is acceptable, subject to planning and environmental considerations addressed below. I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Design & Visual Impact;
- Residential Amenities;
- Traffic & Parking.

7.2. Design & Visual Impact

- 7.2.1. The grounds of appeal primarily assert that the design of the proposed development would not have sufficient regard and respect for the adjoining Victorian terrace along Rathdown Road, which forms part of a 'Z2' residential conservation area. It is further asserted in the grounds of appeal that the proposed development would have a detrimental negative impact on the character and setting of the 'Z2' conservation area. In response to the grounds of appeal, a detailed rationale for the design of the proposed houses has been set out, including the contemporary approach taken and the need to address a previous reason for refusal of development on the site.
- 7.2.2. In May 2018 the Planning Authority refused planning permission (DCC Ref. 2670/18) for a three-storey building containing five apartments on this site, with the proposed building largely following the adjoining building line and height along Rathdown Road to the north. In refusing permission, the Planning Authority highlighted concerns regarding the discordant appearance of the proposed three-storey building with respect to the adjoining two-storey Victorian terrace.
- 7.2.3. The existing site is undeveloped and features extensive overgrown vegetation to the front and rear. There is a well-defined and established urban grain in the immediate vicinity with two-storey red-bricked terraced housing on similar size plots fronting onto gardens. There is a steady decrease in ground levels moving southwards. Views of the proposed development would be primarily restricted to the approach from the south, including the intersection of Rathdown Road and Grangegorman Upper.
- 7.2.4. With regard to infill sites, the Dublin City Development Plan 2016-2022 states that development should respect and enhance its context and should be well-integrated with its surroundings, ensuring a more coherent cityscape. Section 16.10.9 of the Development Plan lists a range of criteria to be assessed in relation to housing proposals on corner sites, including the character of the area, compatibility with adjoining dwellings and building lines.

- 7.2.5. The applicant refers to neighbouring permitted infill developments that incorporate a contemporary design, differentiating the developments from their adjoining historical neighbouring buildings. The proposed development would introduce a two-storey building at the end of a terrace of Victorian housing. The proposed building line would continue the line established by the terrace to the north. In contrast to the previously refused apartment building on site (DCC Ref. 2670/18), the subject proposals, including flat roof with parapets, would allow for a substantial element of the original gable to the terrace of Victorian housing to remain visible when approaching from the south. The proposed houses would feature various complementary references to the neighbouring terraced housing, including red brick and two-storey façades, while a contemporary palette of materials and a simplified building form would be used to visually distinguish between the new and old structures. A slight recess in the proposed building line is also proposed at the intersection with No.25a to create definition. The proposed flat roof and windows would differ from the pitch roofs and timber-sash windows of the adjoining houses. Proposals are similar in design and scale to the permitted two-storey detached house that is currently under construction 200m to the north of the appeal site at the northern end of the adjoining terrace (Rear of 262 North Circular Road – DCC Ref. 4682/18).
- 7.2.6. While the two-storey houses proposed to be introduced into this cityscape would be suitably differentiated and defined from the adjoining terrace, they would also respect the architectural setting and character of the adjoining historic terrace. Consequently, I am satisfied that the proposed development would not unduly impact on the architectural quality of the conservation area and would not conflict with policy CHC4 of the Development Plan, which aims to protect the special interest and character of Dublin's conservation areas.
- 7.2.7. In conclusion, I am satisfied that the design and siting of the proposed houses, would have sufficient respect and regard for the established pattern and character of development in the area and would be in accordance with the zoning objectives for this 'Z2 – Residential Neighbourhood (Conservation Area)'. Accordingly, permission should not be refused for reasons relating to the design and visual impact of the proposed development.

7.3. Residential Amenities

- 7.3.1. The Development Plan requires proposals for houses in infill garden sites to have regard to the impact on the residential amenities of adjacent dwellings. The orientation, scale and siting of the proposed houses on site, is such that potential for undue overshadowing, overlooking and overbearing impacts on neighbouring residential amenities would not arise. I note that the rear windows of the proposed houses would be 8.5m to 22m from the student residence permitted on slightly higher ground to the east (DCC Ref. 4674/18). This student residence would be constructed directly onto the rear service lane, but with all windows facing northeast and featuring design elements such as louvres to reduce the potential for overlooking. Consequently, I am satisfied that undue impacts on the amenities of future occupants of the proposed houses would not arise as a result of overlooking from neighbouring properties.
- 7.3.2. Policy QH21 of the Development Plan seeks to ensure that new houses provide for the needs of family accommodation with the provision of a satisfactory level of residential amenity, in accordance with the standards for residential accommodation. The target gross floor area for a three-bedroom two-storey six-person house, as set out within the Departmental 'Quality Housing Guidelines' and referenced in the Development Plan, is 100sq.m. The proposed houses would provide a gross floor area substantially in excess of this at 137sq.m and 138sq.m. The minimum living-room areas, aggregate living areas, aggregate bedroom areas and storage areas are all achieved in the proposals. Proposals would fall marginally short of the Development Plan '20%' standard regarding the extent of glazing relative to the floor area of the ground-floor kitchen/dining rooms in the proposed houses. Aspect for the proposed houses would primarily be from the southwest and the northeast on both ground and first-floor levels. Despite the minor shortfall with respect to glazing area, I am satisfied that the internal space and layouts for the proposed houses would provide an appropriate level of amenity for their future occupants.
- 7.3.3. Based on Development Plan standards requiring 5sq.m to 8sq.m of private amenity space per bed space in new houses in the inner city, the minimum amount of private amenity space required for the proposed houses would be 30sq.m to 48sq.m. In response to a further information request from the Planning Authority, the applicant

clarified that the residents of the four apartments in No.25a do not have access to the appeal site and as a result the proposed development would not impact on the 52sq.m of amenity space already provided and maintained for residents within No.25a. Revised layouts for the rear amenity areas for both houses were also proposed at further information stage. In total 80sq.m of rear amenity space would be available for the residents of both houses and this area would be split evenly, thereby exceeding the minimum standards of the Development Plan. The amenity areas would also be located on split levels, with storage areas accessible at grade from the rear laneway before stepping down into courtyard spaces at ground-floor level abutting the rear of the proposed houses. Given the size of the rear amenity areas, as well as the rationale for the house design and siting, restrictions on exempted development rights for the new houses would be warranted.

- 7.3.4. In conclusion, subject to a condition addressing exempted development rights, I am satisfied that the proposed development would provide for a suitable level of amenity for future residents of the proposed houses in line with Development Plan provisions.

7.4. Traffic & Parking

- 7.4.1. The grounds of appeal assert that the proposed development would further impact on parking and traffic congestion experienced in the area. To the front of the site there is on-street 'pay and display' parking available on both sides of Rathdown Road and at the junction with Grangegorman Upper. This area was recently subject of planning permission for a revised roads layout and public realm improvements (ABP Ref. 302066-18). The proposed houses would only be served by a single shared pedestrian access off Rathdown Road and off-street parking is not proposed. The proposed development would not impact on the revised permitted roads layout or the existing layout, including on-street parking. The site is a 250m walk from the Grangegorman Luas stop and I would consider this location to be capable of absorbing a reduced parking quantum for the proposed development, as facilitated within the Development Plan. While I recognise that the houses would to some extent attract additional traffic to the area, this would be largely imperceptible and would not lead to concerns regarding traffic safety or convenience. Accordingly, the development should not be refused for reasons relating to traffic and parking.

8.0 Appropriate Assessment

- 8.1. Having regard to the minor nature 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.

9.0 Recommendation

- 9.1. I recommend that planning permission for the proposed development should be granted, subject to conditions, for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. Having regard to the zoning for the site, to the nature and scale of the proposed development, and to the existing pattern of development in the vicinity, it is considered that subject to compliance with the conditions below, the proposed development would respect the character and quality of existing development within the area, would be acceptable in terms of visual impact, would not seriously injure the residential amenities of the area or of property in the vicinity, would provide a suitable level of amenity for future occupants in accordance with the provisions of the Dublin City Development Plan 2016-2022 and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 submitted on the 10th day of May 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 materials, colours and textures of all the external finishes to the proposed houses shall be submitted to and agreed in writing with the Planning Authority before the commencement of construction of the houses.

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

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of either of the two proposed houses without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of rear amenity space is retained for the benefit of the occupants of the houses and in the interest of the visual amenities of the area.

4. a) The applicant or developer shall enter into water and/or waste water connection agreements with Irish Water, prior to commencement of development.
b) 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.

5. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

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

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

7. Proposals for a house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all house numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

8. 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.

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.

10. The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City Scheme 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.

Colm McLoughlin
Planning Inspector

7th October 2019