



An
Bord
Pleanála

Inspector's Report ABP-304808-19

Development	Demolition of 2 dwellings & construction of 9 apartments
Location	'Park Cottage', 2 Chapelizod Road (D08HX9A) & 'Fatima' 2A, Chapelizod Road, (D08HC5Y), Islandbridge, Dublin 8
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2729/19
Applicant(s)	Panacea Ventures Limited.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Panacea Ventures Limited
Observer(s)	David Corry Elizabeth Van Amerongen. Waterways Ireland
Date of Site Inspection	16 th September 2019.
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. The appeal site extends to an area of 0.0493 hectares located at 2 Chapelizod Road R109 in Dublin 8 approximately 1.300m east of Heuston Station. The Phoenix Park is opposite to the north and the site is bounded by the River Liffey to the south. There is an existing contemporary dwelling to the east. Adjoining lands to the west are densely vegetated. Chapelizod Road R109 is a busy link between the city centre Chapelizod, the N4 and the western suburbs. It carries a significant volume of traffic particularly at peak times. Pavements are provided on both sides and a cycle lane on the southern carriageway fronting the site. The site is within approximately 40m of the Islandbridge Gate junction of Kyber Road and Chapelizod Road.
- 1.2. The appeal site is presently occupied by two dwelling two storey and single storey which are in a significant state of disrepair. Doors are boarded up with metal cladding and windows boarded up with wooden panels while roofs have a significant degree of slate loss leaving the building open to the elements.
- 1.3. Application details indicate that the site Chapelizod Road 2A/B/C is placed on the Derelict Sites Register File No DS887.

2.0 Proposed Development

- 2.1. The proposal involves:

Demolition of 2 no existing dwellings, 'Park Cottage' two storey, 'Fatima' single storey and outbuildings; and

(ii) Construction of a four storey over basement apartment development consisting of 7 no two bedroom and 2 no one bedroom apartments each with a associated balcony / terrace areas and a set- back at third floor level;

(iii) 2 no car parking spaces, a bin store and bicycle parking will be provided at ground floor level along with a car lift to serve the basement

(iv) 8 no car parking spaces and plant will be provided at basement level and

(v) new vehicular access onto Chapelizod Road, landscaping boundary treatments, SuDS drainage and all ancillary works necessary to facilitate the development.

2.2. The detail of the proposal is outlined in its full detail in the suite of plans and drawings accompanying the application and also the following reports:

Planning Report by Hughes Planning and Development Consultants

Engineers report. Magahy Broderick Associates

Photomontage Images by ArchFX

3.0 **Planning Authority Decision**

3.1. **Decision**

By order dated 4th June 2019 Dublin City Council issued notification of its decision to refuse permission for the following reason:

“The proposed development by reason of its scale, density and location would constitute overdevelopment of the site and would detrimentally impact on the setting of the surrounding conservation area and materially contravene the Z9 land use zoning objective for the site stated in the Dublin City Development Plan 2016-2022 which is To preserve, provide and improve recreational amenity and open space and green networks as no exceptional circumstances have been demonstrated to justify residential development in this sensitive location. The proposed development would impact on the amenities of the area and therefore be contrary to the proper planning and sustainable development of the area.”

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

3.2.1.1 Planner’s report notes that residential development is neither permissible or open for consideration within the Z9 zoning. No exceptional circumstances exist as to justify residential development. The gradual erosion of the Z9 land bank and the precedent that this may set for similar developments within this sensitive conservation area would be contrary to the proper planning and sustainable development of the area. Loss of mature vegetation on river corridor is of significant concern. Historic cottages along Chapelizod Road provide evidence of the past. Scale of the development is considered to be out of keeping with the area and provides for a structure whose

massing would dominate the streetscape to the detriment of the conservation area. Overlooking of number 1b to the east. Flood risk assessment deemed inadequate by drainage division. No objection in principle to the demolition of the existing structures. Whilst it is desirable to see a derelict site being developed to improve the streetscape and character of the area the proposal is contrary to the zoning and does not constitute a limited form of development or demonstrate exceptional circumstances that would justify a development of the density proposed.

3.2.2. Other Technical Reports

3.2.2.1 Archaeological Report recommends condition regarding archaeological impact assessment to include test trenching.

3.2.2.2 Engineering Department Drainage Division. Insufficient information with regard to surface water drainage. Flood risk assessment required to address potential risk from all sources taking account of the impact of 20% climate change. Sustainable drainage systems to be incorporated in the management of surface water. Minimum finished floor level of a 1:200+climate change 20% suitable free board as set out in the Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment.

3.2.2.3 Roads Streets and Traffic Department report indicates no objection subject to conditions.

3.3. **Third Party Observations**

3.3.1 Submission from Elizabeth van Amerongen objects on grounds of visual impact, contravention of Z9 zoning, loss of trees, traffic hazard. Other concerns relate to sewerage infrastructure capacity and flooding.

3.3.2 Submission from David Corry, Weiriew House, Chapelizod road - objects to the development on grounds of zoning, roads and traffic safety, inadequate foul waste drainage. Massing and scale of the proposal considered out of character in this green corridor. Significant negative impact on natural heritage and biodiversity. Negative impact on rowing community. Inaccuracies in planning report and

engineering reports are noted. Cyclist tragically killed at the junction of Island Bridge Gate and Chapelizod Road in 2017.

- 3.3.3 Bryan Patten, 38 Bellevue, Islandbridge. Objects to the height of the development noting negative impact on green infrastructure. Removal of trees that visually connect the Phoenix Park to the Liffey.
- 3.3.4 Greg Zakrzewski, B-Arch, Chapelizod Old Village Association. No objection to architectural aesthetic however concerns regarding overall massing and height. Proposal should be reduced to the parapet line of the adjoining houses. Mass should be broken at midpoint to reduce the impact on Chapelizod Road. A single long block should be replaced by 2 shorter blocks that will visually read more like villas and allow sunlight to penetrate to the footpath / road.
- 3.3.5 David Wright, 1B Chapelizod Road. Objects on grounds of height density, traffic management, overlooking overshadowing 1B and breach of set back from river rule. Impact on Archaeology.

4.0 Planning History

Adjoining site to the east of the appeal site

3221/15 Permission for second floor extensions to two existing split level semi-detached dwelling houses comprising 2 storeys to front and 3 storeys to rear. (Not implemented to date.)

5155/05 PL29S216087 The Board upheld a grant of permission for demolition of existing dwelling and associated structures and construction of 2 no split-level dwellings and associated landscaping and site works.

5.0 Policy Context

5.1. Development Plan

5.1.1 The Dublin City Development Plan 2016-2022 refers. The site is zoned Z9 Amenity / Open Space Lands / Green Network. The objective is “to preserve provide and improve recreational amenity and open space and green networks”. The development Plan states that “*Generally the only new development allowed in these areas, other than the amenity / recreational uses, are those associated with the open space use.*”

“Residential development shall not be permitted on public or private owned open space unless exceptional circumstances are demonstrated.”

Permissible uses and open for consideration uses are set out. The Plan states that uses not listed in the categories of *inter alia* the Z9 zone are deemed not to be permissible uses in principle. However, it is recognised at 14.6 in relation to Non-Conforming Uses it is set out that : “Throughout the Dublin City Council area there are uses that do not conform to the zoning objective for the area. All such uses, where legally established (the appointed day being 1 October 1964) or where in existence longer than 7 years, shall not be subject to proceedings under the Planning and Development Act 2000 (as amended) in respect of the continuing use. When extensions to or improvements of premises accommodating such uses are proposed, each shall be considered on their merits, and permission may be granted where the proposed development does not adversely affect the amenities of premises in the vicinity and does not prejudice the proper planning and sustainable development of the area.

Green Infrastructure Open Space and Recreation Objectives are set out in Chapter 10 and include: GI15. “To protect maintain and enhance the natural and organic character of the watercourses in the city”

GI 16. To protect and improve the unique natural character and ecological value of all rivers within and forming boundaries to the administrative area of Dublin City Council, in accordance with the Eastern River Basin District Management Plan.

GI 17 To develop sustainable coastal, estuarine, canal and riverine recreational amenities to enhance appreciation of coastal natural assets in a manner that ensures that any adverse environmental effects are avoided, remedied or mitigated.

GIO14: (i) To seek the designation of Liffey Valley (from Islandbridge to the city boundary), Sandymount and Merrion Strands, the Phoenix Park and also Irishtown Nature Park as Special Amenity Areas and to prepare Special Amenity Area Orders (SAAOs) for same.

Chapter 5 Quality Housing sets out relevant objectives including:

QH 8 “To promote the sustainable development of vacant or underutilised infill sites and to favourably consider higher density proposals which respect the design of surrounding development and character of the area.”

The site is within zone 3 with regard to car parking.

5.2. **Natural Heritage Designations**

The site is not within a designated area. The South Dublin Bay SAC (Site Code 00210) and South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) are located c 6km to the east of the site.

5.3. **EIA Screening**

Having regard to the nature and scale of the development, 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 The appeal is submitted by Hughes Planning and Development Consultants on behalf of the first party. Grounds are summarised as follows:

- The proposal avoids loss of amenity or integrity of adjoining peripeties and protects the visual amenities of the immediate area.
- Height and density has due regard to the Urban Development and Building Heights Guidelines for Planning Authorities and makes efficient use of brownfield lands.
- Form and scale of the development designed on foot of adjoining residential scheme approved under Planning Ref 5155/05 and 3221/15, PL29S216087. Adjoining residential development provides a precedent for current proposal.
- The proposed scheme represents a direct improvement of the site and is considered appropriate in the context of the Dublin City Council commentary on non-conforming uses and conservation areas.
- Proposal is a direct improvement of the site. The existing use poses a threat to the sustainable development through the potential for anti-social behaviour arising from its current dereliction.
- High standard of architectural quality compliments both the riverside setting and the adjoining residential units.
- Proposal is appropriate given the increased focus on height and densities as set out in the NPF and Urban Development and Building Heights Guidelines.
- Complies with Objective CHC4 with regard to conservation in terms of replacement of building which detracts from the character of the site.
- Proposal represents a high-quality modest addition to the immediate streetscape and will provide a high standard of residential accommodation for future occupants.

6.2. **Planning Authority Response**

6.2.1. The Planning Authority did not respond to the appeal.

6.3. **Observations**

6.3.1 Observation submitted by Elizabeth Van Amerongen, Phoenix Hill objects to the proposed development on grounds of contravention of Z9 zoning, impact on trees, river bank and biodiversity. Traffic hazard, drainage issues and flooding.

6.3.2 Observation of David Corry, Weirview House, objects on grounds of contravention of zoning, overdevelopment of the site, traffic and road safety, capacity of foul waste drainage. Proposal results in a significant loss of mature trees and negative ecological impact. Negative impact on the amenities of the rowing community. Inaccuracies within documentation noted. It is notable that a fatal accident of a cyclist at the Islandbridge Gate junction.

6.4. **Prescribed Bodies**

6.4.1 I note that the Board referred the case to a number of prescribed bodies including The Heritage Council, Dept of Culture Heritage and the Gaeltacht, An Taisce, Waterways Ireland, Inland Fisheries Ireland. Only one response was received from Waterways Ireland which asserts that the proposal does not impact on any navigable inland waterways managed and maintained by Waterways Ireland.

7.0 **Assessment**

7.1. Having visited the site, considered the grounds of appeal and all submissions I consider that the key issues for consideration by the Board in this appeal can be addressed under the following broad headings:

- Principle of Development
- Design, height & Layout & impact on the amenities of the area
- Flooding, Traffic and Servicing
- Appropriate Assessment

7.2 **Principle of Development**

7.2.1 The site is located within an extensive area zoned Z9 Amenity / Open Space Lands / Green Network. The stated objective is “To preserve, provide and improve recreational amenity and open space and green networks.” Residential development is not permissible nor open for consideration and the development plan is clear that “residential development shall not be permitted on public or privately-owned open space unless exceptional circumstances are demonstrated.” While the first party

argues that the proposal represents an improvement of an established non-conforming use, I would not concur that the proposal could be viewed as such. The proposal seeks to replace two dwellings with 9 no apartments, an entirely different intensity of residential use with a differing set of material impacts. On this basis I conclude that the proposal represents a material contravention of the zoning objective.

7.2.2 As regards the first party contention that previous permission on the adjoining site, PL29S216087 which provided for a replacement of a single dwelling with two dwellings, under same zoning provisions in the Dublin City Development Plan 2005-2011, represents a precedent for the current proposal, I note that from review of the previous case the proposal involved a building footprint not significantly greater than the previous existing single dwelling and the reporting inspector noted that the proposal did not intrude to any significantly greater extent into the rear curtilage of the site maintaining a 7.5m separation distance to the riverbank. The current proposal could not in any case be viewed in the same light given its substantially increased footprint and significant encroachments onto the riverbank as evidenced on existing and proposed site layout plan drawing No 2016-54-P-100.

7.2.3 As regards the principle of demolition of the existing structures on the site I note that the application provides little information in terms of the background of the existing structures on the site and no assessment of any potential for historic fabric on the site. Whilst clearly the existing dwellings on the site are uninhabitable, are of no particular apparent architectural merit, and are structurally defective arising from neglect, I consider that an architectural heritage assessment and survey should be included to provide a record and to inform any future proposed development on the site. I also note that the city Archaeologist recommended that a condition applying the event of permission requiring archaeological impact assessment including test trenching.

7.3 Design, height, layout and impact on the amenities of the area.

7.3.1 As regards the design I note a number of positive elements in terms of the contemporary design approach and response to the specific constraints and characteristics of the site. I note that the proposal meets and exceeds the required minimum standards and the proposal would provide for a good standard of amenity. As regards height and scale I consider that the proposal is entirely out of scale and would detract from and dominate the streetscape and views from the Liffey. On the issue of impact on established residential amenity the proposal would result in significant negative impact on adjacent dwelling 1B in terms of overlooking and overbearing impact. The loss of established trees and vegetation on the site would result in a significant loss in terms of visual amenity and biodiversity. The proposal would set an undesirable precedent for similar such development and would clearly be contrary to the proper planning and sustainable development of the area.

7.4 Flooding, Traffic and Servicing.

7.4.1 As regards flooding I would concur with the report of the Drainage Division that the submitted flood risk analysis (Section 5 of the Engineering Report by Maghahy Broderick and Associates) is entirely inadequate. Any future proposal should include a detailed flood risk assessment taking account of potential risks from all sources of flooding with impact of 20% climate change.

7.4.2 As regards traffic impact, I note that the proposal provides for an 11m wide vehicular access from Chapelizod Road and 10 car parking spaces on site (two at ground floor level and 8 at basement level). A car lift is provided to access basement with provision for a maximum of 2 cars to wait within the site for car lift to obviate queuing by cars on the public road. I note the roads section indicated no objection to the proposal on traffic grounds.

7.4.3 As regards servicing I note that the third-party appellants raise concerns with regard to the capacity of the foul sewer in the area. I note that the City Council referred the application to Irish Water however there is no response from Irish Water and thus there is insufficient evidence on this matter.

7.5 Appropriate Assessment

7.5.1 Having regard to the nature and scale of the proposed development and/or

nature of the receiving environment and/or proximity to the nearest 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.

7.6 Conclusion and Recommendation

7.6.1 Further to the above planning assessment of matters pertaining to this appeal, including consideration of the submissions of each party to the appeal and the site inspection, I conclude that the proposed development would materially contravene the zoning objectives and would be contrary to the proper planning and sustainable development of the area. Accordingly, I recommend that permission be refused for the proposed development for the following reasons and considerations.

REASONS AND CONSIDERATIONS

The appeal site lies within an area zoned Z9 Amenity / Open Space Lands / Green Network as established by the Dublin City Development Plan 2016-2022. The proposed development by reason of its scale, height, mass and bulk would result in an overbearing and visually obtrusive structure which adversely affect the character of the area, would result in a significant loss of existing trees and vegetation and encroachment into the riparian corridor of the River Liffey and would materially contravene the zoning objectives of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector

3rd October 2019