



An  
Bord  
Pleanála

## Inspector's Report ABP-305591-19

### Development

The application is for a revised design to replace previously permitted planning application 2793/14. The revisions include alterations to elevations, additional floor area and an additional storey.

### Location

274, Merrion Road, Ballsbridge,  
Dublin 4

### Planning Authority

Dublin City Council South

### Planning Authority Reg. Ref.

WEB1436/19

### Applicant(s)

Ciarán O'Loan

### Type of Application

Permission

### Planning Authority Decision

Refuse

### Type of Appeal

First Party

### Appellant(s)

Ciarán O'Loan

### Observer(s)

None

### Date of Site Inspection

29/01/2020

### Inspector

Gillian Kane

## 1.0 Site Location and Description

- 1.1.1. The subject site is located on the eastern side of Merrion Road. This heavily trafficked route has a mix of residential and commercial properties, bound to the east by the railway line.
- 1.1.2. The subject site forms one of a square of four plots between Merrion Road (western boundary) and the railway line (eastern boundary). The subject site not 272 sits to the rear (east) of a single storey cottage (no. 276) and to the side of nos. 280 and 278 (derelict). The subject site is derelict, overgrown and vacant. No.s 276 and 280 facing Merrion Road appear habitable and no. 278 appears to be vacant.

## 2.0 Proposed Development

- 2.1.1. On the 19<sup>th</sup> July 2019 planning permission was sought for the construction of a two-storey dwelling of 95sq.m. on a site of 124sq.m., as an amendment to a previously granted permission 2793/14.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On the 12<sup>th</sup> September 2019, the Planning Authority issued a notification of the intention to REFUSE permission for the following reason:
  - 1 The proposed two-storey development would represent a visually incongruous backland development by virtue of its height and massing and would result in development which would be seriously injurious to the amenity of adjacent properties and would conflict with the established pattern and character of single storey development in the immediate vicinity. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

- 3.2.1. **Planning Report:** Proposed development is acceptable in principle. Proposed second storey would be incongruous given single storey pattern of development in the immediate vicinity. Proposed development would appear visually dominant being behind a modest bungalow. Proposed development is contrary to zoning objective. Recommendation to refuse permission.

## 4.0 Planning History

- 4.1.1. Planning Authority reg. ref. **2793/14**: Planning permission granted for a new 63 sq.m single storey two-bedroom house, on the vacant site of a previously demolished (circa 1945) railway cottage along the DART line.
- 4.1.2. This permission was extended up to an including 14<sup>th</sup> March 2025. (2793/14/X1 refers).

## 5.0 Policy Context

### 5.1. Dublin City Development Plan 2016-2022

- 5.1.1. In the Dublin City Development Plan 2016 -2022 plan, the site is zoned '**Z2 Residential Conservation**' which has the stated objective "to protect and improve the amenities of residential conservation areas". Within Z2 zones 'Residential' is a permissible use.
- 5.1.2. **Chapter 16** includes the Development Management Standards and has regard to Design, Layout, Mix of Uses and Sustainable Design. **Table 16.1** provides the Maximum Car Parking Standards for Various Land-Uses and **Table 16.2** the Cycle Parking Standards. Applicable to the proposed development are the following:
- Indicative plot ratio for Z1 zones is 0.5 to 2.0,
  - Indicative site coverage for the Z1 zone is 45-60%
- 5.1.3. **Section 16.10.2** of the development plan refers to residential quality standards for Houses. It states that in relation to floor areas: Houses shall comply with the principles and standards outlined in 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). Rear gardens and similar private areas should: be screened from public areas, provide safe and secure play areas for children, be overlooked from the window of a living area or kitchen, have robust boundaries; and not back on to roads or public open spaces.

## 5.2. EIA Screening

- 5.2.1. Having regard to nature of the development comprising infill development on the site of a former dwelling and the urban location of the site 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. An agent for the applicant has submitted a first party appeal against the decision of the Planning Authority to refuse permission. The submission provides details of the subject site, the planning history and the development plan. The grounds of the appeal can be summarised as follows:
- Amendments to proposed scheme submitted to the Board, to address the concerns of the Planning Authority.
  - Backland development does not apply to the subject site as the proposed dwelling replaces a previously removed dwelling. The proposed development should be assessed against the 2014 application rather than the existing situation on site.
  - The revised proposal, sits 0.695m above the ridge height of no 276 Merrion Road and the previously approved dwelling on site.
  - Reducing the massing of the proposed dwelling, enables the dwelling to replicate the width of the cottage at 276 and extend only 1.1m wider than the 2014 permission. This is submitted to be an immaterial deviation.
  - The proposed dwelling is set back 10m from Merrion Road and therefore will only be visible for a short distance. The pop-up element does not reduce the setting or pattern of development in the area.
  - The pop-up element in the 2014 permission was set-back 3.2m from the north elevation of the existing cottage , with no set-back from the railway line. If the Board require, then a further 1m set back at first-floor level at the southern end of the site can be achieved. This would retain the clearance required by Irish Rail.

- It is submitted that the flat-roofed profile and the reduction in visual massing addresses the Planning Authority's reasons for refusal.
- It is submitted that there is no basis for the Planning Authority's decision that the proposed development would injure residential amenities.
- The two proposed windows on the east elevation face the pedestrian laneway on no. 278 Merrion Road. the separation distance of 3.45m means any views will be oblique. The residential amenity of the dwelling will not be impacted.
- The proposed western elevation window illuminated the stairwell will be of opaque glazing. The second western elevation window is small and does not overlook anything. Should the Board require, this can be omitted.
- The Board is requested to grant permission.

## 6.2. **Planning Authority Response**

6.2.1. None on file.

## 7.0 **Assessment**

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development including the various submissions from the applicant, the planning authority and the Observer. I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Extent of permission

### 7.2. **Principle of Development**

7.2.1. The subject site is located in an area zoned for residential development and on a site which formerly comprised a single storey cottage. Subject to compliance with all other planning considerations, the proposed development is acceptable in principle.

### 7.3. **Extent of Permission**

7.3.1. The proposed two storey dwelling sits approx. on the site of a former single storey cottage, stated to be demolished some time mid twentieth century. Permission is

sought to construct a two-storey dwelling of 95sq.m. I note that the applicant / appellant requests the Board to assess the proposed development as an amendment of the permitted 2014 development. The Planning and Development Act 2000, as amended does not provide for the amendment of a planning permission. The proposed development must be assessed de novo, as a fresh application before the Planning Authority and likewise the Board.

- 7.3.2. The Planning Authority refused permission for the proposed dwelling on the grounds that it would be visually incongruous by virtue of its height and massing, that it would injury the residential amenity of the area and would conflict with the established pattern of development in the area.
- 7.3.3. In their appeal to the Board, the applicant states that they sought to address the concerns of the Planning Authority. The appeal includes revised plans which show a reduced in width dwelling, reducing the floor area by 12sq.m. to 83sq.m. and increasing the proposed private open space. The window profile on the side (north-western) elevation is revised and the parapet height is reduced from 8.65m to 7m.
- 7.3.4. Regarding the scale and massing, the introduction of a two-storey dwelling on a plot formerly occupied by single storey cottages would certainly be visually different. The subject site is one of four small roughly square plots (no.s 276, 274, 278 and 280) on which stood or stands a single storey cottage. To the immediate west is a terrace of two-storey villas (no.s 254 to 272) which due to the topography of the area read as single storey from the public road. The subject site and its three neighbours prominently step down from this terrace. Only the roof profile of the cottages is visible from the adjoining footpath on Merrion Road.
- 7.3.5. The proposed dwelling (as amended by the drawings submitted with the appeal) with a flat roofed first floor has a parapet height of 7m, roughly in line with the chimney height of the adjoining cottage at no. 276. The elevation proposed to face Merrion Road is blank. To the rear (east) facing the railway line, a single corner window is proposed at first floor. From Merrion Road, the proposed dwelling reads as a pop-up, an evidently new addition to the building height-line. The flat roof is distinct from the neighbouring pitched roofs. The proposed dwelling is set back from the road, the railway line and the adjoining terrace. It will clearly read as a new element and one which is architecturally distinct from its neighbours. Given the stepping down profile

and that the subject site is the last site before the railway crossing, it is considered that it is capable of accommodating a new, taller element. I am satisfied that the proposed two-storey dwelling would not be visually incongruous, would create an interesting streetscape at this location and would be in keeping with the zoning objective for the area.

- 7.3.6. In terms of residential amenity, no windows are proposed at first floor level on the Merrion Road elevation. The first-floor rear elevation facing the railway line comprises a single corner window, at a separation distance of 3.2m from the rear boundary. The side elevation facing no. 272 to the west (drawing no. S2/Application/RevD) has a square window of opaque glass illuminating the stair-well and a smaller window for the living area at first floor. These windows are 4m and 5m from the western side boundary. The eastern elevation, currently facing a derelict cottage ( no. 278) has two windows at first floor level. The separation distance of 3.4m is minimal, however the derelict cottage is currently single storey and therefore no overlooking can currently occur. Given that the first floor accommodates a kitchen and dining area, no overlooking should occur should the adjoining site be developed in the future.
- 7.3.7. The proposed development seeks to bring a derelict site back into use for a family home. The proposed two-storey dwelling is an efficient use of zoned land. The densification of this urban area, adjoining a number of high-quality public transport routes is welcomed. I am satisfied that the proposed development is in keeping with the pattern of development of the area, will not be visually incongruous or injurious to the are amenity of the area and is in accordance with the zoning objective of the area.

## 8.0 Recommendation

- 8.1. I recommend permission be GRANTED for the following reasons and considerations and subject to the following conditions.

## 9.0 Reasons and Considerations

- 9.1.1. Having regard to the pattern of development in the vicinity of the site, and to the nature, scale and extent of the proposed development, and having regard to the provisions of the current Development Plan for the area, it is considered that the

proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential amenities of property in the vicinity, would comply with the provisions of the Development Plan, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>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 to the Board on the 8<sup>th</sup> October 2019, except as may otherwise be required in order to comply with the following conditions.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>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.</p> <p><b>Reason:</b> In the interest of public health and to ensure a proper standard of development.</p>
3.	<p>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.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In the interest of clarity.</p>
4.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.</p> <p><b>Reason:</b> In the interest of orderly development and the visual amenities of</p>



	the area.
5.	<p>The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) 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.</p> <p><b>Reason:</b> To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.</p>
6.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Classes 1, 3 and 5 of Schedule 2, Part 1 to those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.</p> <p><b>Reason:</b> In the interest of orderly development, and to allow the planning authority to assess the impact of any such development on the amenities of the area through the statutory planning process</p>
7.	<p>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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000</p>

	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.
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Gillian Kane  
Senior Planning Inspector

31 January 2020