



An
Bord
Pleanála

Inspector's Report

ABP-305792-19

Development	Demolition of derelict house & construction of 5 residential units
Location	31, Orwell Road & Washerwoman's Lane, Rathgar, Dublin 6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3831/19
Applicant(s)	Andrea Free
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Andrea Free
Observer(s)	Rathgar Residents Association Charles and Rosemary Quinlan
Date of Site Inspection	9 th January 2020
Inspector	Bríd Maxwell

1.0 Site Location and Description saving

- 1.1. The appeal site is located on the eastern side of the Orwell Road on the southern environs of Rathgar Village approximately four kilometres south of Dublin City Centre. The subject site is irregularly shaped and occupies an area of 694 square metres (0.07 hectares). The site is currently occupied by a derelict two-storey structure which was formerly a period residential dwelling dating from the mid-19th century and vacant lands to the rear. Palisade fencing runs along the boundary of the site. The site has road frontage onto the Orwell Road to the southwest and more extensive frontage onto Washerwoman's Lane which runs along the northern boundary of the site. This lane comprises of a cul de sac which serves an underground car park associated with a *Supervalu* convenience store to the immediate north of the site. The laneway also provides rear access to a number of large dwellinghouses which front onto Highfield Road to the north of the site.
- 1.2. A two-storey commercial block is located adjacent to the northern boundary of the site at the corner of Washerwoman's Lane and Orwell Road. This accommodates a retail store at ground floor level and office accommodation above.
- 1.3. The block on the northern side of Washerwoman's Lane directly opposite the site accommodates a small *Supervalu* convenience store fronting onto Orwell Road and also incorporates residential accommodation at first and second floor level to the rear of the block, notably including balconies which directly face onto and overlook the appeal site.
- 1.4. Lands to the south of the site accommodate an infill residential development Stratford Haven which comprises a small residential gated community accommodating 25 two-storey residential terraced houses. Four of these dwelling units (Nos. 10 to 16) back onto the southern boundary of the appeal site. Each of these units accommodate modest rear gardens between 5 and 10 metres in depth.

2 Proposed Development

- 2.1 The proposal as described in public notices involves "demolition of a 4 bedroom, 2 storey derelict house (total floor area of 192m²) and the construction of 5 residential

units consisting of 2 no 4 bedroom three storey semi-detached houses facing Orwell Road with terrace balconies to the front at second floor level (houses 1&2 only) and 3 no 2 bedroom two storey terraced houses accessed from Washerwoman's Lane with balconies to the rear at first floor level (houses 3 4 & 5 only). The proposal includes the permanent closing of vehicular access on Orwell road and retaining vehicular access on Washerwoman's Lane to include 5 car parking spaces, 5 bicycle spaces and all associated landscaping and infrastructural works.

3 Planning Authority Decision

3.1 Decision

By order dated 15th October 2019 Dublin City Council issued notification of its decision to refuse permission for the following reasons:

“The proposed pair of semi-detached properties facing onto Orwell Road, by reason of their scale, bulk and roof profile would be visually obtrusive to the streetscape and not have adequate regard to the proportions and scale of surrounding development. The proposed development would therefore be incongruous and out of character with the established built form in the area and would be seriously injurious to the amenities of the area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Having regard to the extent of the proposed development on a constrained site, the private amenity space for houses no 3, 4 and 5 fails to meet minimum standards as set out in the City Development Plan 2016-2022 and would therefore result in a substandard level of amenities for future occupiers. Then proposed development by itself and by the precedent which a grant of permission for it would set would be contrary to the stated provisions of the city Development Plan and would be contrary to the proper planning and sustinabile development of the area.”

3.2 Planning Authority Reports

3.2.1 Planning Reports

3.2.1.1 Planner's report asserts that the third storey of the building to Orwell Road would dominate the streetscape and would appear visually incongruous. Building features considered out of character. Buildings to Washerwoman's Lane more in keeping with surrounding properties however houses 3, 4 and 5 have substandard areas of open space.

3.2.2 Other Technical Reports

3.2.2.1 City Archaeologist report recommends archaeological monitoring.

3.2.2.2 Engineering Department Drainage Division report indicates no objection subject to conditions.

3.2.2.3 Road Streets and Traffic Department report expresses concern regarding potential conflict between pedestrians and vehicles accessing the site and neighbouring *Supervalu*. Further information required including mitigation measures to address traffic conflict. Internal vehicular manoeuvres to be demonstrated. Cycle parking to include a minimum of 2 spaces per dwelling

3.3 Prescribed Bodies

No submissions.

3.4 Third Party Observations

3.4.1 Submission from a number of third parties object to the proposal on common grounds summarised as follows:

- Development is out of character represents overdevelopment.
- Inadequate amenity space.
- Traffic issues
- Orlando House dating from 1869 and is a feature of the approach to Rathgar.
- Archaeological assessment required.
- Previous grounds for refusal remain

4 Planning History

ABP303658-19 4351/18 The Board upheld the decision of Dublin City Council to refuse permission for the following reason. “Having regard to the pattern of development in the area and taking account of the scale, mass and design layout of the proposed development, it is considered that the proposed development would be excessive in scale and size, would have a significant overbearing impact and give rise to excessive overlooking of the adjoining properties along the southern boundary of the site at Stratford Haven. The proposed development would seriously injure the residential amenities in the area and would, therefore, be contrary to the proper planning and sustainable development of the area.” I note that the Council’s decision was based on inadequacy of private open space, incongruous design and loss of residential amenity to Stratford Haven by reason over overlooking and overbearing impact.

1459/02 Permission was sought for development which included the demolition of all derelict structures and construction of 11 apartments with access directly onto Orwell Road. Application deemed withdrawn following failure to respond to request for additional information including justification for demolition of houses and outbuilding and compliance with open space standards.

0828/03 Permission granted for demolition of derelict structures on site and construction of 9 apartment with semi basement car park.

3315/04 Permission granted for alterations to the previous grant of permission 0828/03

5 Policy Context

5.1 National Policy

5.1.1 Project Ireland 2040 – National Planning Framework

5.1.2 The National Planning Framework Section 2.6 highlights the importance of securing compact and sustainable growth. National Policy Objective 3a seeks to deliver at least 40% of all new homes nationally within the built-up footprint of existing

settlements. National Policy Objective 3(b) seeks to deliver at least half of all new homes that are targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford within their existing built up footprints.

Objective 13 states that in urban areas, planning and related standards including in particular building height and car parking, will be based on performance criteria that seek to achieve well designed high-qualified outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

Chapter, No. 6, entitled 'People Homes and Communities' - Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Objective 35 seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.2 S28 Ministerial Guidelines.

- Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities. Department of Environment, Heritage and Local Government, May 2009.
- Urban Design Manual A best practice Guide. May 2009.
- Design Manual for Urban Roads and Streets, DMURS
- The Planning System and Flood Risk Management (including the associated 'Technical Appendices') Dept Environment Heritage and Local Government November 2009.

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities – Department of Housing Planning and Local Government March 2018
- Urban Development and Building Height Guidelines, Department of Housing Planning and Local Government, December 2018

5.3 Development Plan

5.3.1 The Dublin City Development Plan 2016-2022 is the operative Plan.

5.3.1.1 The site is zoned Z1. The objective is “*to protect, provide and improve residential amenities*”

5.3.1.2 Other relevant policies and standards include:

- Section 16.2.1 Design Principles.
- Section 16.2.2.2 Infill Development. It is particularly important that proposed development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.
- Section 16.10.2 & 16.10.3 Residential Quality Standards – Houses.
- Section 16.10.9 Corner / Side Garden Sites.
- Section 16.10.8 Backland Development.
- Section 16.10.10 Infill Housing 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.
- Chapter 5 Quality Housing QH8 “To promote the sustainable development of vacant or underutilised sites and to favourably consider higher density proposal which respect the design of the surrounding development and character of the area.

5.4 Natural Heritage Designations

5.1.1 The site is not within a designated area. The South Dublin Bay SAC (Site Code 000210) and South Dublin Bay and River Tolka SPA (Site Code 004024) are the nearest Natura sites, located circa 5km distant.

5.5 EIA Screening

5.2.1 While the proposed development falls within a class of development within a class of development for which EIA may be required, there is no real likelihood of significant effects on the environment based on the nature, size and location of the proposed development and therefore no EIA is required in this instance.

6 The Appeal

6.1 Grounds of Appeal

6.1.1 The first party appeal is submitted by Jam Architecture on behalf of the applicant.

- Proposals were significantly modified to address previous refusal including reduction in height of houses 3, 4 and 5 from 3 to 2 storey. Houses 1 and 2 facing Orwell road were modified to reduce eaves height to the rear. Brick colour and roof profile amended in response to concerns of An Bord Pleanála and Dublin City Council.
- Initial proposal was for a grey brick which would be in keeping with the colour mix in Rathgar village. Red brick changes the visual presence of houses 1 & 2 on Orwell road (especially the gable end) to a heavy and bulky appearance and adversely contrasts with the granite bays and rendered elements on upper levels. Image of the proposal in grey brick provided in supplementary booklet.
- Re-introduction of grey brick would bring a lighter appearance to the houses and better integrate with granite bays zinc roof and rendered elements. Exposed gable end would read more sympathetically against the adjacent houses and blend into the background. This would allow the facade to read as a two-storey element on Orwell Road due to the strong zinc roofline at balcony level and recessed second floor.
- Building line follows the adjacent commercial property and mirrors similar proportions to the SuperValu building which is a 3-storey building adjacent to 2 storey

commercial and residential elements. Proposal to introduce 3 houses onto Orwell road should not be penalised because the adjacent houses are located 9.4m back behind a stone wall.

- Roof profile is simplified to low pitch roof during pre-planning. Eyelid design feature is used to bring interest to the roof profile and increase the level of light to master bedrooms where window heads are 2.4m above floor finish. Windows are south/west facing and designed to maximise daylight rather than sunlight. Should the Board consider this element complicated applicant will accept a condition requiring eyelid profiles to be removed on houses 1 & 2. (Visual examples provided in Figure 4)
- Given the infill nature of the site private open space requirements should be in accordance with those of the inner city.
- Houses 3, 4 and 5 are small two-bedroom (3 bed spaces) houses with paved courtyards and balconies to the rear and include an element of private open space to the front which engages with the communal courtyard.
- In relation to manoeuvrability. Fig 5 in supplementary booklet outlines Auto turn manoeuvres within the courtyard.
- To address safety concerns, it is proposed to omit the wall and gates on Washerwoman's Lane to provide forward visibility line of sight of 2.4 x 7m in accordance with DMURS standards. The communal courtyard will therefore be open to Washerwoman's lane allowing easy pedestrian and vehicular access.

6.2 Planning Authority Response

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

6.3 Observations

6.3.1 Observations are submitted by

- Rathgar Residents Association
- Charles and Rosemary Quinlan, 42 Highfield Road Rathgar.

6.3.2 Observers outline their opposition to the proposed development on the following grounds:

- Proposal at variance with village character of Rathgar.
- Represents overdevelopment of the site.
- Fails to meet good standards of planning in terms of daylight, overlooking, private amenity space, car parking access and safety.
- Overlooking and loss of privacy
- Traffic congestion.
- Refurbishment of the house and appropriate development to the rear would be a suitable proposal for the site.

7 Assessment

7.1 I propose to consider the appeal in similar format to the broad headings as set out in the previous appeal ABP303658-19 as follows:

- Principle of Development
- Impact on Residential Amenity and degree to which the proposal addresses the previous grounds of refusal
- Traffic & Pedestrian Safety Issues and other Matters
- Appropriate Assessment

7.1.1 The site is zoned Z1 "To protect, provide and improve residential amenities." Residential development is a permitted use under this zoning. The site is an infill site on backlands where the Development Plan directs that such applications should be viewed on their merits. Section 16.10.10 provides that infill housing should make the most sustainable use of land and existing urban infrastructures. Clearly the proposed densification and provision for a modern standard of residential accommodation on the site is in accordance with the general policy desirability to increase densities within serviced urban areas in the interest of efficient land use, conserving resources and creating economies of scale.

7.1.2 I consider that the given the site's zoning, the delivery of residential development on this currently underutilised site in a compact form is generally consistent with the policies of the Development Plan the NPF and Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness in this regard. On this basis I consider that the principle of redevelopment of the site for residential use is therefore acceptable in principle subject to detailed considerations of design, servicing and amenity. The impact of the proposal in terms of its scale and character residential amenity and other detailed considerations are explored further below.

7.1.3 As regards the question of heritage impact and specifically concerns regarding the removal of Orlando House (Orlando Lodge) a mid- 19th century dwellinghouse which third party observers contend is worthy of preservation as a feature of the approach to Rathgar. I note that as outlined in the previous Inspector's report the building is not listed on the record of protected structures and permission was previously granted by Dublin City Council under 0828/03 for its demolition and replacement with an apartment scheme. The application is accompanied by a conservation assessment by Buchan Kane and Foley, Grade I Conservation Architects which provides an informative record of the building. The report notes that the structure is generally in poor condition with evidence of water damage, fungal infestation and general decay. In particular the return on the rear north side of the house is in poor repair. The report concludes that the building is not of great heritage significance and that any diminishment in local heritage value would be outweighed by the social gain to the locality occasioned by the provision of new housing. I consider that the information submitted provides sufficient justification for the case for demolition of the dwelling to enable a comprehensive redevelopment of the site as a small infill residential scheme.

7.2 **Impact on Residential Amenity and degree to which the proposal addresses the previous grounds of refusal**

7.2.1 As regards allegations of overdevelopment I note that the proposal gives rise to a density of 71 units per hectare which should be considered in the context of National Guidelines which state that the greatest efficiency in land usage is in the range of 35-50 dwellings per hectare and recommends that net densities less than 30 hectares

would generally be discouraged in the interest of land efficiency. Having regard to the infill nature and character and size of the site and proximity to established low density residential development, I consider that the proposed density is acceptable in this context. As regards site coverage the proposal is 47% where the indicative development plan standard is 45-60%. As regards plot ratio the proposal is 0.88 where the standard is 0.5-2.0.

7.2.2 As regards the issue of residential amenity of the proposed dwelling units, I note that the floor areas of the proposed dwellings are reasonably proportioned in terms of internal space standards and meet the standards set out in 2007 Quality Housing for Sustainable Communities Best Practice Design Guidelines. As regards public open space the development plan standard is 10% of site area which would equate to 70 sq.m. The proposed layout provides for a communal private open space of 174sq.m which meets the relevant quantitative standards.

7.2.3 As regards private open space the development plan sets a standard of 10 sq.m per bed space and states that generally up to 60-70 sq.m of rear garden area is considered sufficient for houses in the city. The proposal provides 78sq.m to house 1 and 68 sq.m to house 2. As regards House 3, 4 and 6 the relevant area is 30m², 25m² and 37m² respectively provided in a combination of courtyard and balcony area. The City Council's Planner's report notes that houses 3 & 4 would have rear courtyards of 13sq. and 14sq.m which it is held is inappropriate for a 3 bed house. Courtyards would be entirely hard surfaced and based on the north-western orientation would be in shadow for much of the afternoon. The first party notes that the houses are three person homes and that the Board's previous reporting inspector had recommended that the Board exercise its discretion in relation to private open space standards having regard to the margin below standard and to the fact that the National Planning Framework advocates a more flexible approach in applying standards particularly in relation to infill sites on brownfield land where higher densities can be achieved. I note that an alternative option to reduce car parking and increase the level of open space was also considered by the previous reporting inspector however he considered that the reduction in communal open space and circulation space within the site would be inappropriate and I would

concur with this view. I am inclined to agree that the acceptance of more modest private open space could be considered in light of the circumstances of the case.

7.2.4 On the issue of overlooking having regard to the tight configuration of the site and the nature of surrounding development it is inevitable that some level of overlooking will arise in any redevelopment of the site. I note the relationship to dwellings 10-12 Stratford Haven. Notably no 10 has a glass conservatory within its rear garden. I note that whilst the revised design has sought to address the matter of overlooking of these dwellings by insertion of rooflights at second floor level to houses 1 & 2 and incorporation of new bay windows at first floor level with obscure glazing facing the garden. However, in my view in comparing the refused scheme and the revised proposal while the level of overlooking is reduced to a degree however the issue remains. The provision of bay windows brings the development closer to adjoining properties. I consider that further amendments to house 1&2 are required in order to mitigate negative impact on established residential amenity and to respect the proportions and scale of surrounding development. In this regard I consider that a two-storey arrangement would be more in keeping with the established character.

7.2.5 As regards overshadowing the submitted sunlight analysis study demonstrates that overshadowing arising is not significant in the context of the built-up nature of the site. On the issue over overbearing impact this concern arose particularly in relation to the original proposal for three storey dwelling to the rear and the impact on 12, 14 and 16 Stratford Haven having regard to the modest rear gardens enjoyed by those dwellings. I consider that the reduction in the height of proposed houses 3, 4 and 5 has reduced the potential for overbearing impact however concern remains with regard to the scale of proposed houses 1 and 2.

7.2.6 On the issue of visual impact I note that whilst this was cited in Dublin City Council's decision to refuse both the current appeal and previous appeal, the Board did not take issue with the contemporary style and roof profile of the structure. As regards finish, I note that the first party contends that the introduction of red brick increases the visual presence of the proposed houses 1 & 2 and proposes that a grey brick lightens the appearance and better integrates with granite bays zinc roof and

rendered elements. I am inclined to concur with the first party in this regard. I considered that given the nature of the proposal it can set its own course in terms of materials without the necessity for use of red brick to integrate with the historic red brick featuring in Rathgar Village.

7.3 Traffic and Pedestrian Safety and other matters

- 7.3.1 On the matters of traffic access I consider that the traffic arising from a 5-house development will be negligible in the context of existing traffic volumes accessing *SuperValu* car park to the north of the site. I note the revised layout submitted with the grounds of appeal which omits the wall and gates to Washerwoman's lane to improve forward visibility for traffic emerging from the site. I consider that traffic arrangements are appropriate and the proposal will not give rise to traffic hazard.
- 7.3.2 As regards archaeological impact as the site is located within the zone of archaeological potential it is appropriate that in the event of permission and appropriate archaeological monitoring condition should be attached.
- 7.3.3 As the site is less than 0.1hectare the requirements of Part V in relation to social and affordable housing do not apply.

7.4 Appropriate Assessment

- 7.4.1 Having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the 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.

7.5 Recommendation.

- 7.5.1 Arising from my assessment above, while the principle of an infill residential development on the site is appropriate the scale and design of proposed houses 1 and 2 give rise to overlooking of the rear gardens of No 10 and 12 Stratford Haven to

the detriment of established residential amenity. I recommend that the decision of the Planning Authority to refuse permission be upheld for the following reason.

Reasons and Considerations

Having regard to the pattern of development in the area and taking account of the scale, mass and design layout of the proposed development it is considered that the proposed dwelling houses 1 & 2 by reason of their height and design would have an overbearing impact and give rise to excessive overlooking of adjoining properties adjoining the southern boundary of the site at Stratford Haven. The proposed development would therefore seriously injure the amenities and depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector

4th February 2020