



An
Bord
Pleanála

Inspector's Report ABP 305793-19.

Development	Subdivision to create additional one bed dwelling and renovation of existing, Single and two storey extension at rear, Demolition of garage and chimney at rear.
Location	19 Ebenezer Terrace, Donore Avenue, Dublin 8.
Planning Authority	Dublin City Council
P. A. Reg. Ref.	3732/19
Applicant	THPI Ltd.,
Type of Application	Permission
Decision	Grant Permission.
Type of Appeal	Third Party
Appellant	John Fingleton
Date of Site Inspection	7 th December, 2019.
Inspector	Jane Dennehy

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1.0 Site Location and Description

1.1. The site has a stated area of 115 square metres and is that of a detached two storey double fronted corner house with a shopfront. It is a corner site, at Ebenezer Terrace and Donore Avenue and is perpendicular to terraced two storey houses facing onto Hamilton Street to the east. The rear boundaries of the properties on Hamilton Street, face onto the frontage of Donore Avenue onto which some of which have rear entrances. Some of these properties have returns or have been extended, have outbuildings and rear yards and gardens. The area is an established residential area dating from the late nineteenth or early twentieth centuries primarily comprising modest sized single and two storey terraced houses opening directly onto the street and with small rear yards or gardens on narrow plots.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for:
- demolition of a garage and chimney at rear the total stated floor area of which is twenty-eight square metres;
 - subdivision and renovations at the existing building providing for conversion from one dwelling unit to two dwelling units,
 - the addition of a single and two storey extension at the rear and,
 - creation of a new entrance off Donore Avenue and associated site works.

The total stated floor area of the existing buildings is 118 square metres and, with the proposed extension in place the combined total stated floor area is 141 square metres. The stated plot ratio is 1.226 and stated site coverage is 66%

3.0 Planning Authority Decision

3.1. Decision

By order dated, 1st October, 2019 the planning authority decided to grant permission subject to conditions which are of a standard nature and which include an archaeological monitoring condition.

3.2. Planning Authority Reports

3.2.1. Planning Officer Report

The planning officer in his report concluded that the proposed development is satisfactory, having regard to flexibility allowed for in applying development plan standards to inner city areas, notwithstanding some deficiencies of a relative minor nature having regard to guidance and standards within the “*Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities*” (DOEHLG 2007) for the dwelling and private open space provision. He also states that he considers that the proposed development would not give rise to adverse impact on the residential amenities of properties and architectural character of the area.

3.2.2. City Archaeologist Report

The report of the City Archaeologist dated, 17th September, 2019 indicates acceptance of the proposed development subject to inclusion of an archaeological monitoring condition.

3.2.3. Drainage Division – Engineering Department.

The report of the Division dated, 6th September, 2019 indicates acceptance of the proposed development subject to inclusion of standard conditions.

3.3. Third Party Observations

A submission from the appellant party was received by the planning authority. His concerns are set out in the appeal. (See paragraph 6 below.)

4.0 Planning History

There is no record of planning history for the site as recorded in the planning office report. However, at the time of the inspection a public notice was on display, dated, 25th November, 2019 indicating proposals for relocation of a window.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site location is within an area subject to the zoning objective: Z2: *“to protect and or improve the amenities of residential conservation areas.”* The location is also within a ‘zone of archaeological interest’ and within the ‘zone of archaeological constraint’ for record monument DU018-020

Guidance and standards for residential quality and design are set out in Chapter 16 and in particular, sections 16.2.1 and 16.10.2

Guidance and standards for infill developments are set out in section 16.10.10. and Objective QH 8 provides for higher density development which respects the character of surrounding development on vacant or under-utilised sites.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was received from John Fingleton of No 7 Hamilton Street on his own behalf on 30th October, 2019. According to the appeal the first-floor rear study window will overlook the rear gardens of Nos 5 and 7 Hamilton Street. This can be avoided if a window is placed in the elevation overlooking Donore Avenue and the study modified so that passive surveillance of the street, which would be welcome could be provided. A section drawing and photograph are included with the appeal.

- Mr. Fingleton notes that erroneously it is stated that no observations were received in connection with the application in the planning officer report. He also states that it does not agree with the statement in the planning officer

report that the study is a “non habitable” room. He also believes that the study could also be used as a bedroom.

- In addition, Mr. Fingleton considers the design for the elevation to Donore Avenue to be of poor quality and that is of a considerable scale which is not subordinate to the existing elevation. The elevation to Donore Avenue would be 9.6 metres where as it is only four metres on to Ebenezer Terrace.

6.2. Applicant Response

No submission in response to the appeal has been received by the Board.

6.3. Planning Authority Response

No submission in response to the appeal has been received by the Board.

7.0 Assessment

- 7.1. It is considered that the appellant makes a case based on enhancement of the presentation of the elevation facing onto Donore Avenue for relocation of the window in the south elevation serving a small office. He considers that it would lead to overlooking of the rear private open space of Nos 5 and 7 Hamilton Street. However, there is no evidence as to acceptance of this proposal on the part of the applicant, from whom a response to the appeal was not received. However, as has been noted, a new application providing for relocation of the window has recently been lodged with the planning authority as was noted on a public notice on display during the site inspection. Bearing the foregoing in mind, it is reasonable and appropriate to consider the current proposal before the Board on appeal on its own merits and without prejudice to future determination of a decision on the subsequent application lodged but not yet determined by the planning authority at the time of writing.
- 7.2. It is agreed that the long blank elevation onto Donore Avenue shown in the proposal is considerable at in excess of nine metres in length but it is not negative in impact and subject to use of good quality maintenance and ongoing maintenance, it is

considered that reasonable in that there would be an insufficient case for rejection of the proposed development over this matter.

- 7.3. It is agreed that the proposed first elevation window in the rear, south elevation serving a proposed study, could give rise to a degree of overlooking of the properties at No 5 and 7 Hamilton Street but direct overlooking between opposing windows would not occur due to the south elevation being perpendicular to the rear elevation of the Hamilton Street houses. However, there is potential for direct overlooking over rear private open space and to perceptions of overlooking. A reasonable solution would be for the window to be obscure glazed and confined to a top opening panel only. The outcome would benefit the internal space for this small room with light and sunlight without undue adverse impact on the residential amenities of the adjoining properties.
- 7.4. Possible future intentions for use of the room which is annotated as a study on the plans, as a bedroom as contended in the appeal is not provided for in the proposals described in the application. The comments of the appellant as to adverse impact of use of bedroom instead of as a study are noted and it should be pointed out that a bedroom would not be regarded as comparable to main living accommodation, or indeed a study in regular use with regard to potential for intrusiveness on adjoining properties, affecting their amenities due for overlooking.

With regard to quantitative and qualitative standards overall, it is agreed with the planning authority that a flexible approach should be taken in the case of the current proposal for subdivision to two dwellings incorporating extensions in respect of deficiencies in private/communal open space provision and dimensions for internal habitable accommodation.

There is no objection to the proposal for an entrance off Donore Avenue, the existing building historically having had a service entrance associated with the former shop unit at the building.

Environmental Impact Assessment Screening.

Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no

real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

Appropriate Assessment Screening.

Having regard to the small-scale nature of the proposed development and, to the serviced inner suburban location, no Appropriate Assessment issues proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. In view of the foregoing, it is recommended that the planning authority decision to grant permission be upheld, with inclusion of a condition for the recommended modifications to the glazing of the window for the study at first floor level in the south elevation.

9.0 Reasons and Considerations

Having regard to the site location within a long established inner city residential area, to the site configuration, the existing building on the site and scale, design and extent of modifications and extensions proposed, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the properties in the vicinity by reason of overlooking, would not adversely affect the architectural character and integrity the existing dwelling or the streetscape within the area which is subject to the zoning objective, Z2 as a Residential Conservation Area in the Dublin City Development Plan, 2016-2022, would not seriously injure the attainable residential amenities for the future occupants, would not depreciate the value of properties in the vicinity and, would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions.

1. The development shall be carried out and completed in accordance with the plans and lodged with the application except as may otherwise be required 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.

Reason: In the interest of clarity.

2. The first floor south facing elevation window for a study shall be fitted with opaque glazing with a top hung opening only.

Prior to the commencement of development, the applicant shall submit and agree in writing with the planning authority revised plan, section and elevation drawings for this amendment.

Reason: To protect the amenities of the properties in the vicinity.

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. Details of materials, colours and textures of all external finishes shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

5. Hours of construction shall be confined to the hours of 0800 and 1900 Mondays to Fridays excluding bank holidays and 0800 hrs and 1400 hrs on Saturdays only. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

6. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

Notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

Employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

Provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site

7. The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in 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 in respect of the retail unit only and 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. The application of any indexation required by this condition 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.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Jane Dennehy
Senior Planning Inspector
9th December, 2019.