



An
Bord
Pleanála

Inspector's Report

ABP-306642-20

Development	Demolition of the existing structures on site and the construction of a new 47 no. bedroom hotel development and all associated works.
Location	No. 1-3 Thomas Court, Dublin 8
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4460/19
Applicant(s)	Vesada Private Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Vesada Private Limited
Observer(s)	(1) Frank McDonald. (2) Catherine's Park Residents Association. (3) Deidre Garvey & Maurice Dunphy. (4) An Taisce. (5) Joanna Sheppard.

Date of Site Inspection

13th May 2020

Inspector

Colin McBride

1.0 Site Location and Description

- 1.1 The appeal site, which has a stated area of 0.0307 hectares, consists of a former bakery structure fronting Thomas Court just south of its junction with Thomas Street. The site is bounded to the north by an existing protected public house which is three-storeys onto Thomas Street and two-storeys onto Thomas Court, and backs onto a vacant area. The site is opposite the side elevation of St Catherine's Church which is a protected structure facing onto Thomas Street and dating from the mid eighteenth century.
- 1.2 To the south of the site is a two-storey terrace of attractive brick-built artisan's dwellings which front directly onto Thomas Court and date from the late nineteenth century. A similar terrace of two-storey houses are on the opposite side of Thomas Court and to the rear of St Catherine's Church. Directly opposite the site is a three-storey former rectory building which adjoins the church and forms a link to the terraced houses. The housing areas around the church and public house form a residential conservation area. To the west is a car park serving the development in the vicinity with vehicular access off Thomas Court immediately to the south of the site.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of existing structures on site and the construction of a new 47 no. bedroom hotel development across basement to 6th floor level, with direct access from Thomas Court. The development also includes associated reception area, bar, seating/dining area, kitchen, staff areas, ancillary storage, toilets, mechanical plant areas, water tank and attenuation tank. All associated bin storage, mechanical plant at roof level, signage, lighting and site development works.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on two reasons...

1. Having regard to the height, scale, mass and design of the proposal, it is considered insensitive to its surroundings. The proposed development is in a prominent setting within the Thomas Street and Environs Architectural Conservation Area and in close proximity to the Protected Structures of St. Catherine's Church, a historic city landmark of architectural and cultural interest and the 3-storey Arthur's public house also of significant architectural merit. It is considered the proposed 7-storey height and use of contemporary design features result in a building that fails to take into respect the scale, character and setting of adjoining buildings, while appearing incongruous to the surrounding historic streetscapes. The proposal is therefore contrary to section 6.2.1.1 of the Thomas Street and Environs ACA, policies CHC1, CHC2, CHC4 and SC7 of the Dublin City Development Plan, policy SPPR 3 of the Urban Development and Building Heights Guidelines for Planning Authorities (2018) and section 13.4.3 of the Architectural Heritage Protection Guidelines 2011. In addition the approval of such development, would set an undesirable precedent for similar schemes in this sensitive location.

2. Having regard to the height, scale, positioning and window location of the proposed hotel development, it is considered this proposal would seriously injure the amenities of property in the vicinity, particularly those located to the south, in terms of overshadowing, overbearing, overlooking and enclosure. It is also noted the positioning of the proposal would impact pedestrian safety on Thomas Court. This is contrary to sections 8.5.4 and 16.10.10 of the Dublin City Development Plan 2016-2022 and section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities (2018), and as such is contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (17/01/20): The design and scale of the proposal was considered inappropriate within a designated ACA and in proximity to protected structures. The design scale and orientation of the development relative to existing residential development at Thomas Court was considered unacceptable and to be injurious to residential amenity. Refusal was recommended based on the reasons outlined above.

3.2.2. Other Technical Reports

Waste Management Division (18/12/19): Conditions in the event of permission.

City Archaeologist (06/01/20): Archaeological conditions.

Drainage Division (13/01/2020): No objection subject to conditions.

Transportation Planning Division (13/01/19): Further information required including details of provision for pedestrians, submission of draft Construction Management Plan, details of potential relationships with existing parking facilities, details of waste storage and public lighting.

3.3. Prescribed Bodies

3.3.1 An Taisce:

- Issues raised concerned visual amenity, inappropriate design and scale, setting in the context of an ACA, impact on character and setting on adjoining protected structures.

3.4. Third Party Observations

3.4.1 A number of third party observations were received, the issues raised included the following...

- Issues raised concerned visual amenity, inappropriate design and scale, setting in the context of an ACA, impact on character and setting on adjoining protected structures impact on adjoining residential amenity, traffic impact.

4.0 Planning History

4.1 3786/10: permission granted for a new four-storey over basement office building.

4.2 PL29S.233319 (3328/08): Permission refused Demolish existing structures, erect 7 storey office building with retail unit and all ancillary site works. Refused based on one reason...

1. The proposed development is located in the historic Thomas Street area and within the designated Thomas Street and Environs Architectural Conservation area, in close proximity to Saint Catherine's Church, a historic city landmark of architectural and cultural interest and a protected structure. The adjoining buildings to the south are a terrace of two storey residential properties and to the north, a three storey protected structure. Having regard to the character, pattern and scale of development in the immediate area, to the limited size of the site and to the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in December, 2004, it is considered that development of the scale and height proposed would fail to respect the scale and character and setting of adjoining properties and properties in the vicinity including Saint Catherine's Church. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4.3 3284/00: Permission granted for demolition of former bakery building and construction of new 3-storey plus penthouse office building.

4.4 3207/99: Permission granted to demolish disused bakery and construct a 4-storey building housing 8 no. duplex residential units.

5.0 Policy Context

5.1. Development Plan

5.1.1 The relevant Development Plan is the Dublin City Development Plan 2016-2022.

The appeal site is zoned Z5 with a stated objective “to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity”.

The primary purpose of this use zone is to sustain life within the centre of the city through intensive mixed-use development. The strategy is to provide a dynamic mix of uses which interact with each other, help create a sense of community, and which sustain the vitality of the inner city both by day and night (Section 14.8.5).

Permissible uses include office, hotel, and restaurants.

The Z5 zoned area is identified as the key employment location within the city (Section 2.2.4).

Core Strategy - It is an overarching aim ‘to consolidate and enhance the inner city in order to strengthen its crucial role at the heart of the capital city and the city region’.

Shape and Structure of the City -In terms of the Shape and Structure of the City the plan (4.5.1.1.) sets out a number of policies;

SC7: – To protect and enhance important views and view corridors into, out of and within the city and to protect existing landmarks and their prominence.

Fig 4 outlines Key Views and Prospects (Indicative).

SC16: - To recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA).

SC17: - To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city, having regard to the criteria and principles set out in Chapter

15 (Guiding Principles) and Chapter 16 (development standards). In particular, all new proposals must demonstrate sensitivity to the historic city centre, the River Liffey and quays, Trinity College, the cathedrals, Dublin Castle, the historic squares and the city canals, and to established residential areas, open recreation areas and civic spaces of local and citywide importance.

Section 4.5.41 sets out Dublin City Council's approach to taller buildings. It is policy to provide for taller buildings in limited locations identified in the Building Height in Dublin map. Georges Quay is identified as allocation where a tall building could be located (above 50m).

City Economy and Enterprise – recognises that Dublin must develop with sufficient critical mass in order to compete at an international level and fulfil its role as the key economic driver of growth for the Greater Dublin region and the country as a whole. Relevant policies include CEE5 and CEE11, which recognise the need for high quality and dense development to drive productivity and innovation; the supply of commercial space as a means of increasing choice and competitiveness and the redevelopment of obsolete office stock in the city to consolidate employment.

Development Standards - Section 16.7.2 of the plan sets out Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development. It also sets out the Assessment Criteria for Higher Buildings.

The requirements for Infill Development are set out in Section 16.2.2.2, where it is noted that it is particularly important that proposed development respect and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.

Built Heritage and Culture - The policies in relation to Protected Structures are set out in Section 11.1.5.1. The policies in relation to Conservation Areas are set out in Section 11.1.5.4. These policies seek to protect the structures of special interest

which are included in the Record of Protected Structures (Volume 4 of the Plan) and the special character of Conservation Areas.

Relevant policies include the following;

CHC1 - Preservation of the built heritage of the city.

CHC2 – Protection of the special interest of protected structures.

CHC4 – Protection of special interest and character of Conservation Areas.

Table 16.1 and Table 16.2 set out the car and cycle parking standards for various uses.

Section 16.5 Plot Ratio

Z5 2.5-3.0

A higher plot ratio may be permitted in certain circumstances such as:

- Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed
- To facilitate comprehensive redevelopment in areas in need of urban

Renewal

- To maintain existing streetscape profiles
- Where a site already has the benefit of a higher plot ratio
- To facilitate the strategic role of institutions such as hospitals

Section 16.6 Site Coverage

Z5 90%

As with plot ratio above, higher site coverage may be permitted in certain circumstances such as:

- Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed
- To facilitate comprehensive redevelopment in areas in need of urban renewal
- To maintain existing streetscape profiles
- Where a site already has the benefit of a higher site coverage

5.2 National Policy

5.2.1 The Urban Development and Building Height - Guidelines for Planning Authorities (December 2018) build on the wider national policy objective to provide more compact forms of urban development as outlined in the National Planning Framework. It is acknowledged that increasing building heights has a critical role to play in addressing the delivery of more compact growth in urban areas, particularly cities and large towns.

5.3 Natural Heritage Designations

5.3.1 None in the vicinity.

5.4 EIA Screening

5.4.1 Having regard to the nature and scale the development which consists of demolition of an existing structure on site and the construction of a new seven storey block (over basement level), 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 first party appeal has been lodged by Vesada Private Ltd on behalf of the applicant Vesada Private Ltd. The grounds of appeal are as follows...

- The applicants were not afforded the opportunity to address the Planning Authority's concerns by way of further information.
- The proposal is for use that is permissible within the zoning objective.
- The design and scale of the proposal would be acceptable at this location and in the context of visual amenities of the area, the amenities of adjoining properties and in the context of the setting within an ACA and near existing

protected structures. The proposal provides for an increased density of development at an appropriate city centre location.

- The proposal does not include car parking and such is appropriate due to its city centre location and the need to maximise the development potential of the site. It is noted that previously approved development on site was a considerable period ago and that current policy promotes increased density of development and sustainable use of city centre sites. The appellant provides examples of structures similar in height or higher than adjoining structures have been permitted in the city centre and notes that this is an appropriate site for such.
- In relation to the issue of overshadowing a shadow analysis has been submitted and such demonstrates that the proposal would have a satisfactory impact in regards to adjoining properties.
- It is noted that the orientation and location of windows on the southern elevation is such that there would be no direct overlooking of properties in no. 5 Thomas Court and that the proposed development would be acceptable in the context of residential amenities.
- It is noted that pedestrian access was not raised as a concern in the planning and transportation planning reports and that the pedestrian activity generated at this location is likely to be similar to that would have been generated by the office block previously approved on site.
- The proposal entails use of a derelict underutilised site and will have a positive impact in terms of the vitality of this city centre location in addition to an improved visual impact.

6.2. Planning Authority Response

6.2.1 No response.

6.3. Observations

Observations have been submitted by the following...

Frank McDonald, 4 The Granary, 20 Temple Lane, Dublin 2.

Catherine's Park Residents Association

Deidre Garvey & Maurice Dunphy, 31 Thomas Court, Dublin 8, D08 X7N3.

An Taisce

Joanna Sheppard, 7 Robson Road, West Norwood, London SE27 9LA.

The issues raised in the observation can be summarised as follows...

- Inappropriate design and scale within an ACA and in close proximity to protected structures, in particular St. Catherine's Church and Arthurs Pub. It is noted that there was previously refusal on site (PL29S.233319) for development of more modest scale (five-storeys) on the basis of inappropriate design and scale.
- Excessive height, scale and plot ratio.
- Excessive development in close proximity to residential development causing overshadowing and overlooking.
- Inadequate provision for set down to service taxis and traffic dropping off occupants of the hotel and provision for service vehicles due to the narrowness of the public road and its location in close proximity to a busy junction.
- Adverse construction impact on adjoining properties.
- Inadequate provision for waste storage.

7.0 **Assessment**

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Principle of the proposed development/development plan policy

Design, height, scale and mass of buildings

Adjoining amenity

Construction Impact

Traffic

Appropriate assessment

7.2. Principle of the proposed development/development plan policy:

7.2.1 The proposal seeks to demolish an existing structure on site and construct a new seven storey over basement block to be used as hotel. The appeal site is zoned Z5 under the City Development Plan with a stated objective “to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity”. The existing structure on site is not on the record protected structures and its demolition would not be a significant loss in terms of architectural character at this location. I would consider that the proposed development accords with national policy/guidance, which seeks to secure compact growth in urban areas and deliver higher densities in suitable locations.

7.3. Design, height, scale and mass of buildings:

7.3.1 The first reason refusal relates to the design, scale, mass and design, which is considered excessive in the context of the character of the area, which is a designated ACA and its proximity to protected structures including the three-storey public house to the north of the site and St. Catherine’s Church on the opposite side of Thomas Court. The plot ratio of the proposed development is 6.6 and site coverage is 100%. For the Z5 zoning plot ratios between 2.5-3.0 and 90% site coverage is permissible under Development Plan policy. As noted under the policy section there is scope for increased plot ratio and site coverage above the specified levels under Development Plan policy. In this case the site is small infill site in a city centre location. I would consider that there is justification for increased site coverage and plot ratio above the specified levels to ensure maximum development potential in an accessible city centre location. I would note that such is contingent on the proposal being satisfactory in the context of its visual impact and context in an ACA/adjoining existing protected structures as well impact on the amenities of adjoining properties.

7.3.2 Permission was refused on the basis of the scale and height of the proposal in the context of its location within an ACA and its close proximity to protected structures in

the form of Arthurs Pub to the north and St. Catherine's Church to the west. The proposal is for a seven storey structure, which is significantly higher than existing structures in the immediate vicinity. To the north of the site is Arthurs Pub, which is a protected structure and three-storeys in height where it adjoins the junction of Thomas Street and Thomas Court and two-storeys where it adjoins the site along Thomas Court. To the south of the site are two-storey dwellings. I would consider that the proposed development is excessive in height relative to the existing pattern of development along Thomas Court and that the northern gable of the proposed development will be quite visible when viewed south along Thomas Court as well as from Thomas Street. I would consider that the proposed development is likely to be visible above the existing properties along Thomas Street to the north, which are three and four-storeys in height. St. Catherine's Church, which is protected structure is located at the junction of Thomas Street and Thomas Court and I would consider that the proposed development is likely to quite visible relative to the protected structure when viewed from Thomas Street due to its height, massing and bulk.

7.3.3 I would consider that the overall design, scale and height of the proposed development is excessive and will be highly visible at this location, will be detrimental to character of the designated Architectural Conservation Area, will have adverse impact on the setting of existing protected structures including St. Catherine's Church and Arthurs Pub and will have a disproportionate and adverse impact on the visual amenities of the area. The proposal is therefore contrary to, policies CHC1, CHC2 and CHC4 of the Dublin City Development Plan and would not be in accordance with the proper planning and sustainable development of the area.

7.4 Adjoining amenity:

7.4.1 There are a number of adjoining structure and uses. These include the part three-storey public house to the north of the site (the portion of it adjoining the site is two-storeys). To the west is an open area with car parking for existing structures uses in the vicinity. The vehicular entrance to this area is located immediately south of the

appeal site. To the south of the vehicular access are two-storey dwellings with the terrace of dwellings fronting Thomas Court, which back onto a terrace of dwellings fronting Rainsford Avenue. Permission was refused on the basis that the proposal would seriously injure the amenities of property in the vicinity, particularly those located to the south, in terms of overshadowing, overbearing, overlooking and enclosure. The refusal relates the impact on the existing dwellings to the south of the site.

7.4.2 The proposed development has no significant impact on adjoining amenities of properties to the north, east and west. The dwellings to south are orientated east/west and are back to back. There is a physical gap between the appeal site and the adjoining dwellings due to the vehicular access to the parking area to the rear of the site. The south elevation of proposed development is approximately 6m from the side boundary/northern gable of the existing dwellings at their nearest points. This portion of the structure is the stair core, with the southern elevation featuring windows located just over 9m from the existing dwellings. In relation to the issue of overshadowing, I would note that despite the scale of the proposal relative to the adjoining dwellings, its location north of the existing dwellings reduces its impact in terms of overshadowing. The applicant submitted a shadow analysis for the proposal and such demonstrates the impact of the proposed development would not be severe in regards to adjoining properties and in particular its impact is lesser in relation to the existing dwellings to the south. I would be of view that the proposal would be acceptable in regard to overshadowing and the city centre context of the site must also be taken into account in this regard.

7.4.3 The southern façade does feature windows serving the stair core and bedrooms above ground floor level. The windows are narrow windows. In regards to the issue of privacy and overlooking, I would consider that the city centre context of the site must be taken in to account and the fact that the appeal site, which is an underutilised site should be developed and that the likelihood that such development will be at a more intense level than on adjoining sites to the south. I would consider that in such a city centre location there is no guarantee of absolutely privacy. In the case of the proposed development. The nearest windows to the existing dwelling to

the south are in the stair core. If deemed necessary such windows could be omitted as they are serving a stair core that is likely to act as a fire escape and does not require natural light. In the case of the bedroom windows, they are located further away from the northern gables of the existing dwelling and offset from the rear gardens of the existing dwellings meaning any views would be at an angle and the proposed windows are narrow in their design. I would consider that the orientation of the windows on the southern elevation and their relationship with the adjoining dwellings is satisfactory in the context of a city centre location. I would consider that the proposal would be acceptable in regards to the amenities of adjoining properties.

7.5 Construction Impact:

7.5.1 The proposal is for redevelopment of a derelict underused site in a city centre location. The proposal to redevelop the site is a positive factor and should be encouraged. The construction impact of any proposal on site is likely to be disruptive, however I would consider that adequate construction management and the provision of a construction management plan in the event of grant of permission can deal with any concerns regarding adverse impact of construction at this location.

7.6 Traffic:

7.6.1 The proposal is for a seven storey structure housing a 47 no. bed hotel with bar and restaurant. The appeal site is an urban infill site and the proposal entails 100% site coverage. There is no proposal for car parking no scope for provision of such due to the fact that the site is a small infill site in the city centre. There is a vehicular entrance off Thomas Court to the south of the site, which provides access to a parking area to the west of the site, however this area does not and will not serve the site. All access including the main access to the hotel and the service/good entrance is on the Thomas Court frontage. I would consider that the lack of parking is not a factor given the location of the site within the city centre and accessible to public transport infrastructure.

7.6.2 The observations note concerns regarding the potential impact of traffic set down (such as taxis) along the road frontage of the site. The section of public road, which

facilitates one way traffic movement is narrow and has double yellow lines along each side of the road. The observations raise concerns regarding the impact of traffic set down to the front of the hotel given the narrow width of the road and its proximity to the junction of Thomas Court and Thomas Street. I do not consider that the existing street layout and traffic controls would preclude consideration of the proposed development. The appeal site is infill city centre location and the last permission granted on the site was for four-storey office block.

7.7 Appropriate Assessment:

7.7.1 Having regard to the nature and scale of the proposal, no appropriate assessment issues arise and it is not considered that the proposal would 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. I recommend refusal based on the following reasons.

9.0 Reasons and Considerations

1. The proposed development is located in the historic Thomas Street area and within the designated Thomas Street and Environs Architectural Conservation area, in close proximity to Saint Catherine's Church, a historic city landmark of architectural and cultural interest and a protected structure. The adjoining buildings to the south are a terrace of two storey residential properties and to the north, a three storey protected structure. The overall design, scale and height of the proposed development is excessive and will be highly visible at this location, will be detrimental to character of the designated Architectural Conservation Area, will have adverse impact on the setting of existing protected structures including St. Catherine's Church and Arthurs Pub and will have disproportionate and adverse impact on the visual amenities of the area. The proposal is therefore contrary to, policies CHC1, CHC2 and CHC4 of the Dublin City Development Plan and would not be in accordance with the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

02nd May 2020