



An
Bord
Pleanála

Inspector's Report 306862-20

Development	Revisions and extension of permitted residential dwelling
Location	Lands of former Carmelite Convent of Incarnation (Protected Structure Ref. 3238), Hampton, Grace Park Road and Griffith Avenue, Drumcondra, Dublin 9.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4673/19
Applicant(s)	Grelis Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Decision
Appellant(s)	Grelis Ltd.
Observer(s)	(1) Karl Slattery; (2) Adrian Lewis, Audrey Bryan & Dymphna Murphy; (3) Barry Kehoe

Date of Site Inspection

3rd June 2020

Inspector

Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 885 m² and forms part of a mixed-use scheme known as “Hampton” which is currently being implemented on the former institutional lands of the Carmelite Convent of Incarnation (a Protected Structure). The permitted scheme includes 95 no. residential units, a crèche, a place of worship and a nursing home.
- 1.2. The site comprises an undeveloped land parcel located in the south-western corner of the wider Hampton scheme. The site’s primary frontage adjoins a permitted pedestrian/cycle track which extends in a southerly direction between Nos .18 and 19 Hampton towards Grace Park Road.
- 1.3. The site is located to the rear/north-east of a 2-storey, semi-detached dwelling at No. 45 Grace Park Road and adjoins the side boundary of this property. The site is located to the rear/north-west of No. 47 Grace Park Road, a 2-storey semi-detached dwelling located on the eastern side of the permitted pedestrian/cycle track.
- 1.4. The site is also located to the rear of Nos. 18 and 19 Hampton, which are 3-storey end of terrace dwellings within the permitted Hampton scheme. These dwellings were completed and occupied at the time of the site inspection.

2.0 Proposed Development

- 2.1. The proposed development comprises revisions and an extension to a detached residential dwelling permitted under Reg. Ref. 3378/18; ABP Ref. ABP-303192-18 which forms part of the residential development known as Hampton permitted under Reg. Ref. 4105/15; ABP Ref. PL2N.246430.
- 2.2. Permission is sought for a 2-storey rear extension to provide a 2-storey, 2-bedroom detached dwelling in lieu of the permitted 2-storey, 1-bedroom detached dwelling.
- 2.3. Permission is also sought for associated changes to the permitted elevations to accommodate the proposed extension, including 2 no. double velux windows at first floor/roof level in lieu of permitted rooflights and minor revisions to the permitted layout, garden and boundary walls to accommodate the proposed extension.

2.4. The proposed extension (45.9 m²) will accommodate an enlarged kitchen/dining area at the ground floor level and an additional bedroom and revised internal layout at first floor level. The proposed extension will increase the floor area of the dwelling from 73 m² as permitted to 118.9 m².

3.0 **Planning Authority Decision**

3.1. **Decision**

3.1.1. Notification of the Decision to Refuse Permission for 1 no. reason issued on 12th February 2020 on the basis that the proposed development would adversely impact the residential amenity of occupants of No. 19 Hampton and No. 45 Grace Park Road by way of overlooking and would have an overbearing appearance for the occupants of No. 45 Grace Park Road. It was further considered that the use of obscure glazing to bedroom no. 1 would provide accommodation with low amenity value.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

3.2.2. Basis of Planning Authority's decision.

3.2.3. **Other Technical Reports**

3.2.4. **Engineering Department Drainage Division:** No objection subject to conditions.

3.2.5. **Conservation Officer:** Notes that no review of the file was undertaken but that the particulars of the proposal were discussed with the Planning Officer.

3.3. **Prescribed Bodies**

3.4. **Transport Infrastructure Ireland:** Notes that the north-eastern segment of the parent application site is located over the Dublin Tunnel corridor area. This application does not require a development assessment in accordance with policy MT22 of the development plan.

3.5. **Fáilte Ireland:** None received.

3.6. **An Chomhairle Ealaíon:** None received.

- 3.7. **National Transport Authority:** None received.
- 3.8. **Dublin Port Tunnel Project Office:** None received.
- 3.9. **Irish Water:** None received.
- 3.10. **The Heritage Council:** None received.
- 3.11. **An Taisce:** None received.
- 3.12. **Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs:** None received.
- 3.13. **Third Party Observations**
- 3.14. A total of 3 no. third party submissions were made on the application from: (1) Audrey Bryan & Adrian Lewis, No. 47 Grace Park Road, Drumcondra, Dublin 9; (2) Barry Kehoe, No. 18 Hampton, Grace Park Road, Dublin 9; and, (3) Karl Slattery and Rachel Slattery, No. 19 Hampton, Grace Park Road, Dublin 9.
- 3.15. The points which were raised can be summarised as follows: (1) overlooking and reduced privacy to Nos. 18 and 19 Hampton and No. 47 Grace Park Road; (3) the development conflicts with the standards, design, amenities and quality of the Hampton estate; (4) the development is contrary to the proper planning and sustainable development of the area; (5) overdevelopment of the site; (6) inadequate separation distances to the 1st floor windows of Nos. 18 and 19 Hampton; (7) overbearing impact on Nos. 45 and 47 Grace Park Road due to differences in site levels; (8) impact on future development potential of Nos. 45 and 47 Grace Park Road; (9) no maintenance plan provided for the adjoining laneway; (10) the proposed site trees will impact on south facing sun to the side of No. 47 Grace Park Road; (11) requirement for a low hedge fronting onto the cycle/pedestrian path as required under condition no. 2 of ABP Ref. 303192-18.

4.0 **Planning History**

- 4.1. **Planning Authority Reg. Ref. 3378/18; ABP Ref. 303192-18:** Planning permission granted on 8th April 2019 for the construction of 1 no. additional, 1-bedroom, 2-storey detached dwelling to a granted residential development (reg. ref. 4105/15; ABP Ref. PL29N.246430), revisions to layout and car parking serving dwelling nos. 19-21,

revisions to rear garden of dwelling no. 18 and revisions to granted pedestrian/cycle lane and all associated site and development works.

- 4.2. Condition no. 2 requires that a wall no greater in height than 1.2 m, with additional railings, where required, resulting in a height no greater than 1.5 m, be provided along the front/south-east facing boundary and the side/east facing boundary in order to facilitate passive surveillance of the adjoining laneway and in the interests of residential amenity.
- 4.3. All other conditions are generally standard in nature.
- 4.4. **Planning Authority Reg. Ref. 3467/17:** Planning permission refused for 1 no. additional, 2-storey, 2-bedroom detached dwelling; minor revisions to granted layout and car parking serving dwelling nos. 19-21; minor revisions to rear garden of dwelling no. 18 and revisions to granted pedestrian/cycle lane.
- 4.5. Planning permission was refused for 1 no. reason on the basis that the development would result in an unacceptable level of overlooking and overbearing by reason of its proximity to the adjoining residential dwelling.
- 4.6. **Planning Authority Reg. Ref. 4105/15; ABP Ref. PL29N.246430:** Planning permission granted on 12th August 2016 for a mixed-use development comprising 95 no. residential dwellings, the part change of use and part conversion of the Protected Structure and a new residential nursing home.

5.0 Policy and Context

5.1. Dublin City Development Plan 2016-2022

5.2. Land Use Zoning

- 5.2.1. The site is primarily subject to land use zoning “Z1” (Sustainable Residential Neighbourhoods) which has the objective “to protect, provide and improve residential amenities”. A small section of the site at the northern boundary is subject to land use zoning “Z15” (Institutional and Community) which has the objective “to protect and provide for institutional and community uses”.
- 5.2.2. Residential uses are permissible on Z1 zoned lands and are open for consideration on Z15 zoned lands.

5.2.3. **Extensions and Alterations to Dwellings**

5.2.4. Relevant development plan policy is set out in Sections 16.2.2.3 and 16.10.12 and Appendix 17 of the plan. In general, applications for planning permission to extend dwellings will only be granted where the planning authority is satisfied the proposal will: (1) not have an adverse impact on the scale and character of the dwelling, and (2) not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.

5.3. **Natural Heritage Designations**

5.3.1. None.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. A first party appeal has been lodged by Downey Planning on behalf of the applicant, the grounds of which can be summarised as follows:

- The proposed development has been designed to optimise the appropriate use of the site; to avoid overlooking of the surrounding dwellings; and, to provide an active frontage along the main pedestrian/cycle entrance to the residential development from Grace Park Road;
- A number of changes are proposed to the development in order to address the Planning Authority's refusal reason, including the removal of the 1st floor extension to the north-west elevation such that a single-storey extension is now proposed in place of the previously proposed 2-storey extension;
- The proposed design changes will ensure that appropriate separation distances are maintained to No. 19 Hampton, with no overlooking proposed, and the north-west elevation and the 1st floor level remaining as previously permitted;
- An increased separation distance of 16.7 m is now proposed to the side elevation of No. 19 Hampton, compared with 15.6 m as permitted under the parent application. No directly opposing first floor windows are proposed;

- A separation distance of 21.6 m will arise between No. 19 Hampton and the additional window which is proposed at the rear of the dwelling to serve bedroom no. 1. Opaque glazing is proposed to this window, which will ensure no overlooking of the neighbouring property;
- Bedroom no. 1 is also served by 2 no. rooflights to ensure there is sufficient natural light in the bedroom for amenity purposes, thus addressing the concerns of the Planning Authority regarding the amenity value of this bedroom;
- No overlooking of No. 45 Grace Park Road will occur as the side elevation comprises no directly overlooking windows and the southern elevation remains similar to that previously permitted;
- The overall scale and mass of the dwelling has been reduced to ensure there will be no overbearing impact on the adjoining dwellings;
- The elevations and internal layout of the dwelling have also been amended to ensure that bedroom no. 1 provides high-quality accommodation, with no obscure glazing proposed;
- The ground floor extension will provide a larger kitchen/dining area and will not overlook adjoining properties, with a 1.8m high brick boundary wall and tree planting proposed;
- The proposed dwelling will act as a bespoke gate lodge type unit to the adjacent permitted development in place of the gate lodge bungalow previously located inside the main gates to the convent;
- Private open space of 55 m² is proposed, which exceeds development plan standards for a 2-bedroom dwelling and comprises a minor reduction from the 63 m² as permitted;
- The revised design seeks to address the Planning Authority's refusal reason by reducing the scale of the dwelling, omitting the 1st floor extension and using design techniques to ensure there will be no adverse impacts on the surrounding dwellings;

- The dwelling meets all of the development plan standards, is in accordance with the site's Z1 zoning designation and the established principle of the residential development of the site.

6.2. Planning Authority Response

6.2.1. None received.

6.3. Observations

6.3.1. A total of 3 no. observations have been received from: (1) Barry Kehoe, No. 18 Hampton, Grace Park Road, Drumcondra, Dublin 9; (2) Adrian Lewis and Audrey Bryan of No. 47 Grace Park Road, Drumcondra, Dublin 9 and on behalf of Dymphna Murphy of No. 45 Grace Park Road, Drumcondra, Dublin 9; and, (3) Virtus on behalf of Karl Slattery, No. 19 Hampton, Grace Park Road, Drumcondra, Dublin 9.

6.3.2. The following additional points (see section 3.15 of this report above) have been raised: (1) encroachment of the rear garden onto the communal space in front of No. 19 Hampton and impeded access to the front porch access of this dwelling; (2) the revised proposals submitted to An Bord Pleanála comprise a significant and material alteration of the scheme; (3) overlooking and overbearing impact on the rear garden of the subject site from No. 19 Hampton; and, (4) the applicant's agent has provided no appeal response in relation to the scheme as originally submitted to Dublin City Council.

7.0 Assessment

7.1. The proposed development has been amended by way of the applicant's appeal submission. The revised proposal includes: (1) the omission of the proposed 1st floor extension on the north-western elevation of the dwelling; (2) a single-storey ground floor extension of 35 m² to the north-western elevation; (3) the extension and reconfiguration of the south-eastern elevation at the 1st floor level to facilitate a second bedroom; (4) the internal reconfiguration of the permitted 1st floor level; (5) the reconfiguration of the window arrangement on the north-eastern elevation at 1st floor level, including the removal of 2 no. windows and their replacement with 2 no. rooflights.

7.2. In my opinion, the changes which are proposed to the development are material and would be more appropriately addressed by way of a revised planning application. Notwithstanding the foregoing, my assessment considers the original application proposal and the amended proposal as submitted to the Board.

7.3. I am satisfied that the main issues for consideration in this case include:

- Overlooking Impacts
- Overbearing Impacts
- Reconfigured Boundary Treatment
- Appropriate Assessment

7.4. Each of these issues is addressed in turn below.

7.5. **Overlooking Impacts**

7.5.1. In refusing permission for the proposed development, Dublin City Council considered that the residential amenity of No. 19 Hampton and No. 45 Grace Park Road would be adversely impacted by way of overlooking.

7.5.2. The proposed two-storey extension includes a bedroom window at the 1st floor level on the north-western elevation. This window serves bedroom no. 2 and is located approx. 13 m from the 1st floor window in the side elevation of No. 19 Hampton. The existing and proposed windows are not directly opposing.

7.5.3. Drawing No. PL-07-1105 illustrates a north-westerly viewing cone in the direction of No. 19 Hampton. In plan form, the viewing cone is centred within proposed bedroom no. 2. In my opinion, it would have been more appropriate to position the viewing cone directly adjacent to the 1st floor window to demonstrate the worst-case scenario with respect to the potential overlooking of No. 19 Hampton. No viewing cone has been provided from the existing 1st floor windows to the side elevation of No. 19 Hampton.

7.5.4. Dublin City Council's Planning Officer considered that the viewing cone was not representative of the actual scale of potential overlooking of No. 19 Hampton, and despite the existing and proposed 1st floor windows being at different angles, the resulting separation distance would result in adverse levels of overlooking.

- 7.5.5. In my opinion, the proposed 2-storey extension on the north-western elevation would not result in undue overlooking of No. 19 Hampton. While I acknowledge that a separation distance of 22 m is normally required between opposing 1st floor windows, I note that the existing and proposed windows are off-set in this instance. I further note that the proposed 1st floor window relates to a bedroom and as such, would not be occupied to the same extent as a primary living space. While an element of overlooking of the rear garden of No. 19 Hampton may occur, in my opinion, it would be less than that which would normally occur between adjoining dwellings.
- 7.5.6. It is proposed to provide 2 no. double velux windows on the north-eastern elevation at 1st floor level serving bedroom nos. 1 and 2. The vertical component of each window includes opaque glazing to prevent overlooking of the rear gardens of No. 18 Hampton to the north-east and No. 47 Grace Park Road to the east/south-east. Bedroom no. 2 will be served by a second window with transparent glazing on the north-west elevation as discussed above. Dublin City Council's Planning Officer expressed concerns that bedroom no. 1 would have a low amenity value, given that it would be served by a window with opaque glazing only. I agree that this arrangement would represent a substandard form of development.
- 7.5.7. Dublin City Council's refusal reason states that the proposed development would have an adverse impact on the residential amenity of No. 45 Grace Park Road by way of overlooking. In considering the foregoing, I note that no windows are proposed along the western/south-western elevations at the 1st floor level. As such, I consider that no undue overlooking of this neighbouring property could occur. Thus, in my opinion, it would be unreasonable to refuse permission for the proposed development on the basis of overlooking impacts to No. 19 Hampton and No. 45 Grace Park Road.
- Amended Scheme
- 7.5.8. The amended scheme proposes to omit the 1st floor extension on the north-west elevation. The applicant's agent submits that the separation distance between the permitted 1st floor window and No. 19 Hampton will increase from 15.6 m to 16.7 on foot of the revised proposals. I am satisfied that no undue overlooking of No. 19 Hampton would arise in this context.

7.5.9. The revised proposals include a north-westerly facing window of 0.6 m in the south-western corner of the building serving bedroom no. 1. Having regard to the size of the proposed window and the separation distance of 22 m which would arise to the side elevation of No. 19 Hampton, I am satisfied that no undue overlooking of the existing dwelling would arise. While modest in size, I also acknowledge that the proposed window would provide natural light within the bedroom in addition to the 2 no. proposed rooflights. While the observers have raised concerns in relation to overlooking of the neighbouring properties from the rooflights, in my opinion, no overlooking could occur given their position on the uppermost portion of the roof slope.

7.6. Overbearing Impacts

7.6.1. In refusing permission for the proposed development, Dublin City Council considered that the extended dwelling would have an overbearing appearance for the occupants of No. 45 Grace Park Road.

7.6.2. In considering the foregoing, I note that the site levels increase in a north/north-westerly direction leading into the Hampton estate from Grace Park Road to the south. I further note that the roof of the permitted dwelling is 9.165 m long adjacent to the shared boundary with No. 45 Grace Park Road. The proposed 2-storey extension would increase the length of the 1st floor to 11.965 m, with a set-back of approx. 1.8 m proposed from the shared boundary.

7.6.3. In my opinion, this scale of development at the 1st floor level would be excessive and would result in an overbearing impact on the rear garden space of No. 45 Grace Park Road. As such, I consider that the proposed 1st floor extension would have a negative impact on the residential amenity of this property and that planning permission should be refused on this basis.

- Amended Scheme

7.6.4. The amended scheme includes a new south-westerly projection of 1.15 m at the 1st floor level, with the length of the building remaining at 9.165 m at roof level as permitted. Having regard to the scale of the amendments proposed, I do not consider that any undue overbearing impact would arise to No. 45 Grace Park Road on foot of the revised scheme.

7.7. Reconfigured Boundary Treatment

- 7.7.1. The approved northern boundary of the application site as illustrated on enclosed Drawing Nos. PL-07-1002 and AP-07-1101, comprises a stone wall which is set back from the side elevation of No. 19 Hampton. A small parcel of communal open space is located between the northern site boundary and the side elevation of No. 19 Hampton, which has a projecting porch entrance fronting onto this space.
- 7.7.2. Both the original application proposal and the amended proposals seek to amend the northern boundary of the application site, which will be extended and repositioned in a north-westerly direction. This will increase the length of the subject site and reduce the separation distance to the side elevation of No. 19 Hampton.
- 7.7.3. In my opinion, the reconfigured boundary would result in an awkward arrangement, whereby the rear garden space of the subject site would be unreasonably proximate to the side elevation of No. 19 Hampton. Based on a review of Drawing No. PL-07-1103 (Proposed Site Layout Plan and Boundary Treatment) which accompanies the appeal, the separation distance between the reconfigured northern boundary and the side elevation of the existing dwelling would range from approx. 2.2 m at the narrowest point to a maximum of 5.2 m at the side entrance of No. 19 Hampton.
- 7.7.4. In my opinion, the reconfigured boundary treatment would have a negative impact on the residential amenity of No. 19 Hampton by way of the reduced separation distance and the resulting encroachment of the rear garden space of the subject site. I further note that the reduced separation distance would result in a greater degree of overlooking of the rear garden space from the 1st floor windows in the side elevation of No. 19 Hampton, which serve habitable rooms. As such, I consider that planning permission should be refused on this basis.

7.8. Appropriate Assessment

- 7.8.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

7.9. Conclusion

- 7.9.1. In my opinion, the subject site is constrained by its irregular shape and its location to the rear of 4 no. existing houses within the Hampton estate and at Grace Park Road, which collectively limit the ability to deliver an increased intensity of development at this location. While I do not consider that the proposed development would result in the significant overlooking of any neighbouring property, I consider that the development would have a significant overbearing impact on No. 45 Grace Park Road by reason of the length of the proposed 1st floor extension. I further consider that the reconfigured northern site boundary and extended rear garden space would have a negative impact on the residential amenity of No. 19 Hampton. As such, I consider that the proposed development would be contrary to the proper planning and sustainable development of the area and that planning permission should be refused in this instance.

8.0 Recommendation

- 8.1. I recommend that planning permission be refused for the proposed development.

9.0 Reasons and Consideration

- 9.1. It is considered that the proposed development, by reason of its scale and massing and the revised configuration of the northern site boundary, would constitute the overdevelopment of a restricted site, which would result in an overbearing impact on No. 19 Hampton and No. 45 Grace Park Road. The proposed development would seriously injure the amenities of the area and of property in the vicinity, and would, therefore, be contrary to the proper planning and sustainable development of the area.

Louise Treacy
Planning Inspector

31st July 2020