



An
Bord
Pleanála

Inspector's Report ABP-307115-20

Development	5 apartments, a café and offices
Location	378A North Circular Road Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3964/19
Applicants	Gillian Brady, Liam McInerney and St John Walsh
Type of Application	Permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	Third Party
Appellants	Eoin and Breda Shalloo
Observers	None
Date of Site Inspection	3 rd March 2020
Inspector	Stephen J. O'Sullivan

1.0 Site Location and Description

- 1.1. The site is on the North Circular Road c1.5km north of Dublin's city centre and c110m east of the junction with the Phibsborough Road. The site has a stated area of 305m² and c5.3m of frontage along the southern side of the North Circular Road. The area is largely occupied by two- and three-storey buildings from the 19th century in residential use with ground floor commercial uses along the North Circular Road. There is also a former cinema from the early 20th century c27m west of the site on the other side of the Blessington Street Park that was laid out along the line of a former canal. There is a single disused structure on the site with a stated floor area of 55m². The site includes the area just behind the 3-storey building at no. 380 North Circular Road. The western site boundary adjoins the park, opposite steps that accommodate a fall in level from the North Circular Road to the rest of the park to the south. The eastern boundary adjoins the rear of the 3-storey residential over commercial buildings at the corner of the North Circular Road and Goldsmith Street and the curtilage of the 2-storey house at No 2 Goldsmith Street.

2.0 Proposed Development

- 2.1. It is proposed to remove the existing structure from the site and to erect a building of 587 m² over 5 floors that would contain 5 apartments, a café of 16m² and office accommodation of 64m². Access to the building would be from a door on the North Circular Road. No vehicular access or car parking is proposed. Bike and bin storage would be provided in a courtyard at ground floor level.
- 2.2. The building would have a modern design and a flat roof that would be 12.8m over the level of the street along the North Circular Road and c2.1m above the roof ridge height of the neighbouring building at No. 380. The building would maintain this height for a depth of 12m along its western boundary with the park, after which it would be stepped down.
- 2.3. The café would occupy the unit facing the North Circular Road and the park at street level. The offices would be at lower ground floor and ground floor level
- 2.4. Apartment 1 would be a two-bedroom unit of 67m² on the lower ground floor with a terrace beside the park to the southwest of the site. Apartment 2 would be a two-

bedroom duplex of 92m² on the ground and first floors. Apartment 3 would be a three-bedroom duplex of 96m² on the first and second floors. Apartment 4 would be a studio unit of 40m² on the first floor. Apartment 5 would be a three-bedroom duplex of 94m² on the second and third floors.

- 2.5. The further information submitted to the council on the 12th February 2020 made a small alteration to the proposed development by setting back part of the third floor façade facing. It also proposed a parapet between the terrace serving apartment no. 2 and the boundary of the site with No. 2 Goldsmith Street that would reach a height of 1.8m over the level of the terrace.

3.0 Planning Authority Decision

3.1. Decision

The council decided to grant permission subject to 21 conditions.

Condition no. 1 referred to the amended details submitted as further information on 12th February 2020.

Condition no. 5 required to floor plans and elevations to be submitted to show the setback shown on the previously submitted drawing 1803-ARC-201.

Condition no. 6 required a 1.8m high screen along the boundary of the terrace serving apartment 2 in the interests of residential amenity.

The other conditions did not substantially alter the proposed development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The proposed uses on permissible under the Z4 zoning. An active frontage and strong elevation to Blessington Park would be welcome. The size of the apartments and their terraces would comply with the SPPRs set out in the 2018 apartment design guidelines. All of the apartments would be dual aspect. The amount of light reaching apartment 1 on the lower ground floor may be restricted so a day light study should be sought. There is potential for overlooking of adjoining residential properties from the terraces serving apartment nos. 2 and 3 but this could be

mitigated by screens. A full daylight analysis of the potential impact on neighbouring properties and windows is required. Bats on the site and trees in the park might be affected by the proposed development. In relation to design, the proposed development would introduce extra height that would bookend the existing terraces along the NCR and turn the corner into the park. The height of the proposed building matches that of the old cinema on the other side of the park. The elevation to the park and the stepping down along it is welcome. However the impact of the additional floor at the narrow frontage onto the NCR should be mitigated. The report recommended that further information be sought.

The planner's report on the further information stated that the proposed setback of part of the top floor facing the NCR would provide a successful transition from the terrace to the east while still providing a strong corner at the park. A revised floorplan showing this setback is required but this can be done in compliance with a condition. The submitted sunlight and daylight analysis demonstrates that the proposed development would not unduly overshadow neighbouring homes and that sufficient light would be provided to the proposed apartments. The proposed terraces would not unduly overlook neighbouring properties subject to a 1.8m screen along the edge of the flat roof to the east of the terrace serving apartment 2, as proposed by the applicant. The submitted tree and bat surveys were acceptable, and the drainage and transportation divisions state that they have no objections subject to condition. A grant of permission was recommended.

3.2.2. Other Technical Reports

The Drainage Division sought further information in relation to drainage and flood risk. The subsequent report stated that there was no objection to the development subject to conditions.

The Transportation Planning Department sought further information regard bike storage, deliveries and construction. The subsequent report stated that there was no objection to the development subject to conditions.

3.3. Prescribed Bodies

Transport Infrastructure Ireland stated that the site was within the area covered by the section 49 supplementary contribution scheme for the cross city Luas line.

3.4. **Third Party Observations**

Observations were received from the appellants who live at No. 2 Goldsmith Street and from the occupant of No. 3. They objected to the development on several grounds including –

- the overlooking that would occur from the proposed terraces to the observers' property. The existing terraces serving the houses along Goldsmith Street are not clearly shown on the submitted drawings.
- the excessive height of the proposed development and its impact on the park and on the natural light and outlook from the observers' home
- the design of the proposed development which would not be in keeping with the Victorian character and heritage of the area
- the loss of trees due to the proposed development and the potential impact on bats in the existing structure. No environmental impact study was submitted.
- the failure to assess the potential risk from the proposed Metro link under the site
- the impact on the demand for parking along Goldsmith Street

4.0 **Planning History**

No previous planning applications on the site were raised by the parties. The applicant referred to a grant of permission to extend the house at 2 Goldsmith Street made by the council in October 2017 under Reg. Ref. 3402/17.

5.0 **Policy Context**

5.1. **Section 28 Guidelines**

The minister issued Guidelines for Planning Authorities on Design Standards for New Apartments in December 2020. Section 2.4 states that sites in central and accessible urban locations are suitable for developments consisting wholly of apartments. SPPR2 of the guidelines indicates that its standards apply to smaller infill schemes on sites of up to 0.25ha but that there is scope for discretion for those

smaller schemes subject to overall quality requirements. SPPR3 sets a minimum floor area of 40m² for a studio apartment, of 73m² for a two bedroom apartment and 90m² for a three bedroom apartment. Two bedroom apartments of 63m² may be permitted in certain circumstances, but no more than 10% of units in a scheme should be of this type. Section 4.19 states that car parking should be minimised or possibly eliminated for apartment schemes in central and accessible urban areas.

5.2. **Development Plan**

The Dublin City Development Plan 2016-2022 applies. The site is zoned under objective Z4 for mixed service facilities. It is in the Architectural Conservation Area and the key district centre designated at Phibsborough.

5.3. **Natural Heritage Designations**

None.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The appellants live at No. 2 Goldsmith Street. They object to the proposed development on the grounds that it would have significant and negative impacts on their residential amenity due to:

- Overshadowing - the submitted sunlight and shadow analysis did not clearly describe the impact on the appellant's property.
- Overlooking– the external terrace for apartment 2 would be 7m from the appellants' bedroom window and only 1.16m below it which would seriously injure their privacy. It is not clear whether or not a screen would be provided. The raised terrace would also lead to noise and disturbance affecting the appellants' property.
- The proposed development does not have parking or loading facilities. Goldsmith Street is already congested and further parking permits should be not be issued to for the proposed development.

6.2. Applicant Response

The response can be summarised as follows-

- An assessment of the potential impact of the proposed development on the daylight reaching the appellant's property at No. 2 Goldsmith Street indicates that all bedrooms and living spaces would continue to meet the recommended daylight factors set out in British Standard 8206-2:2008.
- The proposed terraces have been designed to avoid overlooking of the properties on Goldsmith Street by setting back the terraces from the roof edges and by providing high parapets along those roof edges. The applicant proposed a higher parapet that would provide a screen wall along the roof edge between the appellant's house and the terrace serving apartment no. 2 in the further information. This parapet would reach a height of 1.8m over the level of the terrace, as shown on drawing 1803-ARC-302 Rev A1. Condition 6 of the council's decision further clarified that this parapet would be required in the proposed development. The terrace would be 2m below the level of the bedroom window shown on the drawings for the permission for the extension to 2 Goldsmith Street permitted under Reg. Ref. 3402/17. It is evident from this configuration that the proposed development would not unduly overlook the appellant's property or affect its outlook or otherwise injure its residential amenities.
- In relation to parking demand, the proposed development will meet the requirements of the council's Transportation Section.

6.3. Planning Authority Response

None received

6.4. Further Responses

The appellants' response to the applicants' response stated that more specific detail was required in relation to the 1.8m privacy screen shown on section 1803-ARC-303 Rev A1 in relation to materials, obscenity, acoustics etc. The proximity of the rooftop

terrace for apartment 2 is still a concern due to noise impact and an acoustic report should be submitted by the applicants to provide specific sound proofing proposals.

7.0 Assessment

- 7.1. The proposed uses are predominantly residential with some commercial at ground floor level. They would be in accordance with the zoning of the area for mixed services under objective Z4 of the development plan and its designation as a key district centre.
- 7.2. The site is in a central and accessible location. Although it is outside Dublin's city centre, it is within walking distance of it. It is also within walking distance of the Luas stop at Phibsborough and a wide range of services, facilities and places of employment including the Mater Hospital. The provision of an apartment scheme there would be in keeping with the advice at section 2.4 of the apartment design guidelines. The absence of car parking in the proposed development is in keeping with the advice at section 4.19 of those guidelines. Trying to meet the latent demand for car parking would not be a sustainable form of development for this inner suburban area, where it will always exceed supply. The proposed development would provide suitable housing that would not rely on transport by private car by its occupants. As such it would probably have a net beneficial impact on traffic and parking issues in the area.
- 7.3. The proposed building would be somewhat higher than the prevailing three-storey Victorian type buildings along the North Circular Road, but not by much. Its height and modern design would be in harmony with that of the former cinema to the west. As such it would provide an appropriate transition from the terraced buildings to the east while establishing a strong corner at the entrance to the park, as stated in the council planner's report. The development would improve the enclosure and supervision of the park, while the proposed café would provide a suitably active ground floor use in a district centre. The proposed development would therefore have a strong positive effect on the character of the area that was appropriate for an ACA, even though the detailed design of the building does not attempt a pastiche of Victorian styles.

- 7.4. The proposed development would provide a reasonable level of amenity for its occupants in line with the 2020 apartment design guidelines. The proposal for one of five apartments to be of the smaller two-bedroom type and the absence of communal space would be justified under SPPR2 having regard to the overall quality of the proposed infill scheme in relation to the size of the units and their private open space, as well as their aspect and outlook.
- 7.5. The development would not seriously injure the residential amenities of neighbouring properties, including the appellants' house. The proposed building, including the raised parapet proposed by the applicant as further information, would be less than 3.5m above the ground level on the boundary with the 2 Goldsmith Street for most of that length of that boundary. Its impact would be equivalent to a one-storey structure. In the immediate vicinity of the boundary the proposed building would be less than 2m above the ground floor level. The higher elements of the proposed building would be generally to the north of the appellants' house. The proposed development would therefore not unduly overshadow or overbear that house, as illustrated in detail by the daylight and sunlight analysis submitted by the applicant. The setback of the terraces of the southern elevation of the proposed building from the eastern boundary of the site would provide an adequate level of privacy for the occupants of the dwellings along Goldsmith Street. The applicant's position on this issue is accepted. The proposal to increase the height of the parapet wall between the terrace serving apartment 2 and the appellant's house to 1.8m over the level of the terrace would further mitigate any potential impact from overlooking or noise. It is clearly shown on the drawings submitted as further information and in response to the appeal. No further information would be necessary to require its implementation or determine its likely impact.
- 7.6. The further information submitted to the council was sufficient to demonstrate that the proposed development would not be likely to have a significant negative effect on natural heritage in relation to bats, trees or otherwise.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the conditions below.

9.0 Reasons and Considerations

Having regard to the location of the site and the pattern of development in the vicinity, to the provisions of the Dublin City Development Plan 2016-2022 including the zoning of the site under objective Z4 for mixed service facilities and the designation of a Key District Centre and an Architectural Conservation Area at Phibsborough, and to the Guidelines for Planning Authorities on Design Standards For New Apartments issued in December 2020 it is considered that, subject to compliance with the conditions set out below, the proposed development would not injure the character of the area or the amenities of property in the vicinity and would be acceptable in terms of the safety and the convenience of road users. It would therefore be in keeping with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information submitted to the planning authority on 12th February 2020, except as may otherwise be required in order 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matters in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of clarity</p>
2.	<p>The parapet wall shown on drawing 1803-ARC-303 Rev AI submitted to the planning authority on 12th February 2020 to the east of the terrace serving apartment unit no. 2 shall provide a full visual screen from that terrace. It</p>

	<p>shall reach a height of at least 1.8m above the level of the terrace along a length parallel to the entire depth of that terrace.</p> <p>The eastern part of the elevation facing the North Circular Road at the third floor level shall be set back in the manner shown on drawing 1803-ARC-201 Rev AI submitted to the planning authority on 12th February 2020.</p> <p>Prior to the commencement of development the development shall submit for the written agreement of the planning authority additional floor plans for the third floor of the proposed development and elevations of its eastern side that are consistent with the drawings submitted to the planning authority as further information.</p> <p>Reason: In the interests of clarity and orderly development.</p>
3.	<p>The materials, colours and external finishes of the proposed building as well as the surface and boundary treatments shall be in accordance with the details submitted with the application, unless others are required to comply with the conditions of this permission or have been agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>Prior to the commencement of development the developer shall submit for the written agreement of the planning authority details of bicycle storage for to serve the proposed apartments, offices and café. .</p> <p>Reason: To facilitate sustainable transport</p>
5.	<p>Prior to the commencement of development the developer shall submit for the written agreement of the planning authority final details of measures to protect trees and vegetation in the park adjoining the site and to mitigate any impacts on bats from the clearance of the site.</p> <p>Reason: To protect the natural heritage of the area.</p>
6.	<p>No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed</p>

	<p>on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.</p> <p>Reason: In the interest of visual amenity.</p>
7.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
8.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit, the café and the offices shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan</p> <p>This plan shall provide details of air handling and extraction for the permitted café and of any ducting or other equipment required in this regard.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
9.	<p>Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and surface water management</p>

10.	<p>The developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
11.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive and between 0900 and 1300 on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the [residential] amenities of property in the vicinity.</p>
12.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge</p>
13.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000,</p>

	<p>as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
14.	<p>The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Line in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p>
15.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning</p>

and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Stephen J. O'Sullivan
Planning Inspector

3rd March 2020