



An
Bord
Pleanála

Inspector's Report

ABP-307623-20

Development

Demolition of property known as 2 Brunswick Villas, and construction of a 12 apartment development.

Location

site bounded by Shaw Street and Brunswick Villas, Dublin 2, D02 EV97

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

4826/19

Applicant(s)

Peter McVerry Trust CLG

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

O'Neill Accommodation Ltd

Date of Site Inspection

27th October 2020

Inspector

Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.0296 hectares, is located on the western side of Shaw Street and just north of Pearse Street. The appeal site is occupied by an existing structure, which appears to a vacant commercial unit/shed. The site has vehicular access off Shaw Street. Along the northern boundary of the site there is laneway that provides access to the structure on site and rear access to buildings fronting Pearse Street located to the east of the site as well as a side access to no. 32 Pearse Street at the end of laneway. Adjoining uses include two three-storey structures (no.s 36 and 37) located to the south and at the junction of Shaw Street and Pearse Street in use as a public house and guest accommodation (O'Neills Victorian Pub & Townhouse), which are protected structures. To the east is no. 35, which is a three-storey structure in commercial use (The School Tour Company). The structure immediately adjoining the site appears to be a storage structure with a flat roof and doorway off the laneway to the north (rear of no. 34 Pearse Street). To the north of the site and on the opposite side of the laneway is a five-storey structure in commercial use. An elevated railway line runs in close proximity to the site to the north of the site.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of a property known as no. 2 Brunswick Villas, including existing boundary walls and gateway entrance to Shaw Street and the construction of 12 no. apartment including 11 no. 1 bed units and 1 no. 2 bed units in a part three, part six-storey building. The development will include an internal courtyard to the rear, new gateway to existing Brunswick Villas laneway and entrance lobby, plant rooms and bicycle storage areas at ground floor level. All apartments will include balconies to street elevations from first to fifth floors, with setback balconies and balustrades included fifth floor apartment area. The proposed works are to include associated site works, ancillary accommodation and drainage at the site boundary by Shaw Street and Brunswick Villas.
- 2.2. The proposal was altered in response to further information. The changes made include recessed the balconies proposed along both the western and northern

elevations. These alterations have meant a reduction in internal floor area of a number of the apartment units.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 11 conditions. The conditions are standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning Report (24/02/20): Further information required including the details required by the Transportation Planning section and the TII (outlined below) in addition to a daylight/sunlight analysis.

Planning Report (19/06/20): The response to further information and alterations were noted. The proposal was considered to be satisfactory in the context of the visual amenities of the area, adjoining amenities, development management standards and traffic safety. A grant of permission was recommended based on the conditions outlined above.

3.2.2. Other Technical Reports

Drainage Division (06/02/20): No objection subject to conditions.

City Archaeologist (10/02/20): No objection subject to condition.

Transportation Planning (18/02/20): Further information required including liaison with TII Metrolink team, revised proposal to ensure no overhang of public road, clarification regard details of Brunswick Villas entrance including reduced width to prevent parking.

Drainage Division (26/05/20): No objection subject to conditions.

Transportation Planning (08/06/20): No objection subject to conditions.

3.3. Prescribed Bodies

TII (28/01/20): proposal is within an area subject to Section 49 levy scheme.

NTA (31/01/20): Further information required including liaison required with TII Metrolink team to ensure the proposed development would not compromise Metrolink proposal.

3.4. Third Party Observations

3.4.1 A submission was received from O'Neills Victorian Pub and Townhouse. The issues raised can be summarised as follows...

- Overlooking, overshadowing, need for opaque glazing and lack of retail at ground floor level.

4.0 Planning History

PL29S.206079/3637/03: Permission granted for demolition of an existing property and construction of 16 no. apartments in a six-storey structure.

Adjoining site:

4778/19: Permission granted for proposed development at Brunswick Villas, Shaw Street, Townsend Street and Spring Garden Lane, Dublin 2 includes construction over the rail line which traverses the site and also within the vaulted foundations supporting the rail line. The proposed development consists of the following: i. Demolition of existing structures (excluding rail line); ii. Construction of an 11 storey (over basement level and plant level at roof) with setbacks at various levels, office, retail and build to rent residential development with associated facilities, terraces and balconies. The overall development comprises 19,908 sqm GFA including basement). The proposed development bridges over the rail line at fourth floor and above; iii. Provision of two retail units (202 sqm GFA) to the corner of Shaw Street and Townsend Street and within a vaulted foundation; iv. The office element comprises 13,768 sqm. GFA v. The residential element comprises 8 studio units, 20

1-bed units and 21 2-bed units (49 units total) with associated private and communal open space vi. Provision of residential shared facilities and two café units (105 sq.m GFA) within the vaulted foundations of the rail line; vii. The proposed residential development is a “Build to Rent” scheme in accordance with Specific Planning Policy 7 and 8 as set out in the “Sustainable Urban House: Design Standards for New Apartments 2018”. viii. Provision of a basement level with office space, plant and bicycle parking and associated facilities. Two car parking spaces are provided at street level to Brunswick Villas; ix. Public realm improvements and provision of new pedestrian street parallel to the rail line x. All associated site development and services works, landscape works, plant, substation and associated development.

5.0 **Policy Context**

5.1. **Development Plan**

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’.

Section 2.3.3 refers to ‘Promoting Quality Homes’ and includes: The provision of quality housing that is suitable for citizens throughout their lives and adaptable to people’s changing circumstances is fundamental to creating a compact city with sustainable neighbourhoods.

Section 5.5 refers to National and Regional Housing Strategy.

Policy QH1 seeks: To have regard to the DECLG Guidelines on ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007); ‘Delivering Homes Sustaining Communities – Statement on Housing Policy’ (2007), ‘Sustainable Urban Housing: Design Standards for New Apartments’ (2015) and ‘Sustainable Residential Development in

Urban Areas' and the accompanying 'Urban Design Manual: A Best Practice Guide' (2009).

Section 5.5.2 seeks to provide for Sustainable Residential Areas. This includes Policy QH7: To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

QH8: To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

Chapter 16 provides the 'Development Standards' and regard is had in particular in this case to the following Sections:

Section 16.2.2.2 refers to Infill Development and this includes: To ensure that infill development respects and complements the prevailing scale, architectural quality and the degree of uniformity in the surrounding townscape.

Section 16.2.2.4 refers to Boundary Walls and Railings.

Section 16.4 has regard to the Density Standards 16.5 to Plot Ratio standards and 16.6 to Site Coverage.

Residential Quality Standards for houses are referred to in Sections 16.10.2 and 16.10.3. Section 16.10.4 refers to Making Sustainable neighbourhoods.

16.10.8 refers to concerns with Backland Development and 16.10.10 to criteria relevant to Infill Housing.

16.38 and Table 16.1 refer to Car Parking Standards.

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.

5.2 National Policy

Sustainable Urban Housing: Design Standards for New Apartments-Guidelines for Planning Authorities (March 2018)

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.

SPPR1:

In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

SPPR3:

It is a specific planning policy requirement that where;

- (A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and

2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;

then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

(B) In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme

(C) In respect of planning schemes approved after the coming into force of these guidelines these are not required to be reviewed.

Guidelines on Sustainable Residential Development in Urban Areas 2009

Appropriate locations for increase densities

Public Transport Corridors:

Walking distances from public transport nodes (e.g. stations / halts / bus stops) should be used in defining such corridors. It is recommended that increased densities should be promoted within 500 metres walking distance¹⁸ of a bus stop, or within 1km of a light rail stop or a rail station. The capacity of public transport (e.g. the number of train services during peak hours) should also be taken into consideration in considering appropriate densities. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Minimum densities should be specified in local area plans, and maximum (rather than minimum) parking standards should reflect proximity to public transport facilities.

5.3 Natural Heritage Designations

5.3.1 None in the vicinity.

5.4 EIA Screening

5.4.1 Having regard to nature of the development comprising of the construction of a six-storey development comprising of 12 no. apartments, and associated site works, 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 third party appeal has been lodged by O'Neill Town Planning on behalf O'Neills Accommodation Ltd. The grounds of appeal can be summarised as follows...

- The appellants own the existing public house with guest accommodation located to the south of the site at the junction of Brunswick Street and Shaw Street (no.s 36 and 37), which is a protected structure.
- The appellant note that their concerns have not be adequately considered and the proposal would have an adverse impact on the existing protected structure and their guest accommodation.
- The impact of loss of light to guest bedrooms on the southern elevation of the appellants' property is noted with the applicants' daylight/sunlight assessment indicating light levels at a number of windows will be substandard in regards to BRE standards (Vertical Sky Component).
- The layout of proposal would result in overlooking of guest accommodation from a number of balcony areas facing existing windows. There is also possible overlooking from balconies overhanging Shaw Street.

- The overall design and scale of the proposal is inappropriate in the context of its location adjacent a protected structure and would have an adverse on the character and setting of such.
- The appellants' also raised concerns regarding the disruptive impact of the construction phase and the lack of details regarding the management of such including construction traffic management.

6.2. Applicant Response

6.2.1 Response by Derek Daly Planning Consultant on behalf of the applicant, Peter McVerry Trust CLG.

- The proposal is compliant with development plan policy in regards to land use and policies regarding residential development.
- The proposal is satisfactory in the context of its overall design, the visual amenities of the area and the character and setting of the protected structures.
- Construction impact is temporary and is subject to conditions regarding construction management.
- It is noted that inner city context of the proposal is relevant and in such context the level of separation between the proposed development and existing development is satisfactory in the context of overlooking. It is also noted there is distinction between the proposed accommodation and existing accommodation on the adjoining site, which is short stay accommodation.
- The findings of the daylight/sunlight analysis are noted including the fact that some of the windows on the existing premise will fall below recommended standards (the majority of windows meet the requirements). It is noted that the adjoining development is a commercial development and not a residential development and its context in a high density inner city location means adherence to the highest recommended standards is not readily applicable.
- It is noted that all apartments comply with the national guidance on private open space.

6.3. Planning Authority Response

6.3.1 No response.

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/national policy

Quality of design/residential amenity/development control objectives/density

Design, scale, and visual impact

Adjoining amenities

Construction Impact

- 7.2 Principle of the proposed development/development plan/national policy:

- 7.2.1 The proposal entails the construction of 12 no. apartments on a site 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 proposed use is a permitted use within the zoning objective. The appeal site is an underutilised city centre site and its redevelopment for housing would be a positive development subject to adequate regard to the visual amenity of the area, adjoining amenity and overall physical impact.

- 7.3 Quality of design/residential amenity/development control objectives/density:

- 7.3.1 The proposal is for 12 no. apartments. The design and layout of the apartments are consistent with the standards set down under the Sustainable Urban House: Design Standard for New Apartments (March 2018) in relation to apartment size, room dimensions, storage space, the provision of private open space and the provision of dual aspect units. The provision of additional residential development at a city centre location and along a public transport corridor would be also be in accordance with policy objectives under the City Development Plan and national policy under

Sustainable Urban Housing: Design Standards for New Apartments-Guidelines for Planning Authorities (March 2018), and The Urban Development and Building Height - Guidelines for Planning Authorities (December 2018).

- 7.3.2 The proposal has a density of 355 units per hectare. The city centre context of the site means an increased density is appropriate, however such is in context of the overall design, scale and impact on adjoining amenities being satisfactory. These aspects of the proposal will be assessed in the following sections of this report.

7.4. Design, scale, and visual impact:

- 7.4.1 The proposal is for a part three-storey part six-storey structure. The appeal submission raises concerns regarding the overall design and scale in the context of its location adjoining a protected structure (no. 36 and 37 Brunswick Street). The existing protected structure is at the junction of Brunswick Street and Shaw Street immediately south of the appeal site and the structures in question are three-storey structures (O'Neills Victorian Pub & Townhouse, 36 and 37 Pearse Street). The protected structure has its main frontage along Pearse Street. No. 37 has frontage (eastern elevation) along Shaw Street and adjoins the appeal site. The proposal is configured in such a way that along Shaw Street and adjoining the existing structure to the south it is a three-storey block and rises to six-storeys moving northwards adjoining the railway line. The proposed structure has a mainly brick finish with the fifth floor setback and featuring rendered finish and a part flat, part monopitch roof.
- 7.4.2 The majority of the structures in the vicinity are three-storeys, however there is six story structure on the opposite side of Shaw Street on the other side of the railway line and permission has been granted for an eleven-storey structure on a larger site to the north defined by Brunswick Villas, Shaw Street, Spring Garden Lane and Townsend Street. The overall height and scale of the proposed structure would not be out of character or scale at this location. The proposal has been designed in a manner that provides a transition between the protected structure to the south and the six-storey element to the north of the site. The three-storey part of the development is lower in ridge height than the adjoining structure to the south and

the height of the six-storey element is not significantly higher in ridge height than the existing structure. In relation to overall visual impact the scale of structure is unlikely to be prominent or highly visible due to intervening structures and its location off Shaw Street to the rear of existing structures along Perase Street, which is a more prominent and visible location.

- 7.4.3 The overall design and architectural character of the proposed development is of no significant or outstanding architectural merit, however is very much in keeping with the architectural character of existing structures in the city centre and in line with development being permitted in such a context. I would consider that the design and architectural character of the structure would be acceptable in the context of the visual amenities of the area. The proposed structure has been designed to have adequate regard to the status of the protected structures to the south of the site in that there is transition in scale between the existing structure and the six-storey element on site. The overall design and scale of the proposed structure would not diminish the character or setting of the existing protected structure and is of an acceptable design and scale at this location.

7.5 Adjoining Amenities:

- 7.5.1 The appellants' property to the south is a public house with guest accommodation at the first and second floor levels. Some of this guest accommodation has windows on the northern elevation facing towards the site. The appellants have raise concerns regarding the proximity and scale of the structure relative to this guest accommodation with concern regarding overlooking and overshadowing diminishing the quality of this guest accommodation.
- 7.5.2 In relation to overlooking, I would note that there is sufficient separation distance between the rear elevation of the proposed development and the rear elevation of the appellants' property. In addition I would note that the appellants' property is a commercial development and that the inner city context of the site is a relevant consideration. I note that in such circumstances a high level of privacy cannot be expected or guaranteed and in this case I would consider that the pattern of

development and level of overlooking is in line with what would be reasonable expected in a city centre location.

- 7.5.3 The applicant submitted a daylight/sunlight analysis for the proposed development. This assessment includes a shallow analysis demonstrating impact on three dates (December 21^{sqt}, march 21st and June 21st) and shows the overshadowing impact based on the existing scenario, with the proposed development, and with the proposed development and the permitted development on the larger site to the north (4778/19). The analysis demonstrates that the proposed development would cause no significant increase in overshadowing/loss of light in relation to adjoining properties with the appeal site and adjoining structure located within a built up inner city area.
- 7.5.4 The assessment includes an analysis of windows in the vicinity including windows to the rear of the appellants' property in the context of the BRE guidelines in context of average daylight factors (ADF) and vertical sky component (VSC). In relation to ADF 2 out of 25 windows are below the recommended standard and for VSC 93 out of 96 points are below the recommended standard. It is notable that three of the windows to the rear of the appellants' property serving guest accommodation would fall below the recommend standards. I would consider that this would not preclude the proposed development as these rooms are commercial in nature and their use as guest accommodation would not be impacted significantly. I would consider that the urban context and inner city location of the site and the adjoining premises is consideration and that the overall impact of the proposed development would be satisfactory in the context of adjoining amenity.
- 7.5.5 No 34 Pearse Street has a two-storey annexe to the rear and its northern elevation defines the southern boundary of the site. There are windows on the elevation include 2 no. large windows at first floor level. No 34 is a commercial premises (The School Tour Company) and appears to be currently vacant. The proposal is close to the southern boundary and features balconies and widows on the southern elevation. The proposal may have an adverse impact on these windows due to its proximity. The windows serves a commercial premise so the overall impact may be

significant, however I would note the applicant's assessment windows in the vicinity does not include the windows in question.

7.6. Construction Impact:

- 7.6.1 The appellants also raised concerns regarding the disruption impact of the construction phase and the lack of details regarding the management of such including construction traffic management. The impact of construction can be disruptive, however such is temporary period and adequate construction management should be sufficient to minimise disruption caused. I would recommend the provision of a condition requiring the provision of a construction management plan prior to the commencement of development and the imposition of a condition restricting construction hours.

8.0 Appropriate Assessment:

- 8.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1 I recommend a grant of permission based on the following conditions.

10.0 Reasons and Considerations

Having regard to the Z5 zoning objective for the site, "to consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic design character and dignity", as set out in the Dublin City Development Plan 2016 to 2022, to the design and layout of the proposed development, and to the established architectural character and pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the

proposed development would not constitute overdevelopment of the site and would provide a satisfactory quantum and quality of open, communal and private space provision, would not give rise to undue overlooking, would not seriously injure the amenities of property in the vicinity or the visual amenities of the area, or the setting of adjoining protected structures. The proposed development, would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the attenuation and 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.

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

Reason: In the interest of visual amenity.

4. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or Public Holidays. Deviation from these times

shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including traffic management, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and the amenities of the area.

6. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

7. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and

employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

8. Prior to the commencement of development the applicant shall liaise with Transport Infrastructure Ireland (TII) Metrolink team, the National Transport Authority and Dublin City Council to ensure construction management and operation have adequate regard to the future Metrolink infrastructural provision in this area.

Reason: In the interests of orderly development.

Colin McBride
Planning Inspector

27th October 2020