



An
Bord
Pleanála

Inspector's Report

ABP-307626-20

Development

Demolition of existing single storey commercial premises 72m² (hair salon) and construction of 2 storey commercial building 114m². Change of use of building to retail at ground floor and office at first floor, new shop front / signage and all associated site works. (The site is located within Sandymount village and Environs Architectural Conservation Area).

Location

20B Sandymount Green, Dublin 4.

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

2373/20

Applicant(s)

Jong Kim

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Jong Kim

Observer(s)

Bernie Dunne

Peter Bark

Zak Reilly

Nigel Bennett

Date of Site Inspection

3rd September 2020

Inspector

Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 93sqm comprises an existing single storey commercial property operating as a hairdressers located close to the corner of Sandymount Green near the junction with Claremont Road. The site is surrounded by existing taller buildings on all sides. The buildings adjacent to the site facing Sandymount Green are also in commercial use. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of the existing single storey structure with a floor area of 72sqm and replace it with a larger 2 storey building with a ground floor shop unit (retail) and commercial unit (office) above. The gross floor area of the proposed new building is 114 sqm.
- 2.2. The application was accompanied by a Planning Report and a letter from the owner consenting to making a planning application.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. DCC issued a notification of decision to refuse permission for the following reason:

The proposed development for the demolition of existing single storey commercial premises and construction of 2 storey commercial building would result in an unacceptable visual impact on this prominent site within the Sandymount & Environs Architectural Conservation Area by virtue of its nature and design and the poor quality materials proposed. As such, the proposal would contravene the Dublin City Development Plan 2016 – 2022 and in particular Policy CHC4 which seeks “To protect special interest and character and distinctiveness”. Therefore, the proposal would be seriously injurious to the amenity of properties within the area and, as such would depreciate the

value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- The Case Planner having considered the proposed scheme stated that whilst the proposal to replace an existing single storey building with a two storey building of contemporary design could be acceptable within the zoning of the site and within the existing pattern of development, there are serious concerns regarding the design and suitability of material proposed. It was recommended that permission be refused for a single reason. The notification of decision to refuse permission issued by DCC reflects this recommendation.

3.2.2. Other Technical Reports

- **Drainage Division** – No objection subject to conditions set out in the report relating to SUDs, flood risk and surface water.
- **Roads & Traffic** – No objections subject to conditions set out in the report relating to the submission of a Demolition & Construction Management Plan, doors to the bin store shall open inwards and all costs incurred by DCC shall be at the expense of the developer.

3.3. **Prescribed Bodies**

3.3.1. There are no reports recorded on the planning file.

3.4. **Third Party Observations**

3.4.1. There are 8 no observers recorded on the planning file from (1) Philip Regan, (2) Lorna M Kelly, (3) Sandymount & Merrion Residents Association, (4) Gerry Farrell, (5) Beirne Dunne, (6) Peter Bank, (7) Zak Reilly (proprietor of existing hair salon) and (8) Nigel Bennett.

3.4.2. The issues raised relate to noise disturbance, maintenance of adjoining gable wall, construction impact, adverse visual impact, height, scale and design, overshadowing, demolition, traffic and car parking problems, uneven mix of commercial units, reduction

in footfall, loss of trade to the nine outlets presently serving coffee and sandwiches in this small busy village, if the building is demolished the proprietor will not be entitled to a new lease on the building,

4.0 Planning History

4.1. There is no evidence of any previous planning history or appeal on this site.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative plan for the area is the **Dublin City Development Plan 2016 – 2022**. The site is **Zoned Z3 Neighbourhood Centre** where the objective is *to provide for an improve neighbourhood facilities*. The site is also located within the **Sandymount & Environs ACA**. Relevant policies and sections are set out below:

Policy CHC4 - *To protect the special interest and character of all Dublin's Conservation Areas development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.*

Enhancement opportunities may include:

- 1) *Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting*
- 2) *Re-instatement of missing architectural detail or other important features*
- 3) *Improvement of open spaces and the wider public realm, and re-instatement of historic routes and characteristic plot patterns*
- 4) *Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area*
- 5) *The repair and retention of shop- and pub-fronts of architectural interest.*

Development will not:

- 1) *Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area*

- 2) *Involve the loss of traditional, historic or important building forms, features, and detailing including roof-scapes, shop-fronts, doors, windows and other decorative detail*
- 3) *Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors*
- 4) *Harm the setting of a Conservation Area*
- 5) *Constitute a visually obtrusive or dominant form.*

Changes of use will be acceptable where, in compliance with the zoning objective, they make a positive contribution to the character, function and appearance of Conservation Areas and their settings. The Council will consider the contribution of existing uses to the special interest of an area when assessing change of use applications and will promote compatible uses which ensure future long-term viability.

Policy CHC5 - *Where an existing structure is considered to make a neutral or negative contribution to an Architectural Conservation Area the City Council will encourage:*

- 1) *Its demolition and replacement with a high-quality building with enhanced environmental performance or*
- 2) *Where appropriate, its improvement, recladding, or refurbishment to improve both its appearance and environmental performance*

In all cases, demolition will only be permitted where:

- 1) *Any replacement building will be of exceptional design quality and deliver an enhancement to the area and improvement in environmental performance on-site, considering whole life-cycle energy costs*
- 2) *Firm and appropriately detailed proposals for the future re-development of the site have been approved and their implementation assured by planning condition or agreement*

5.1.2. **Sandymount & Environs ACA**

5.1.3. As stated above the appeal site is located within the **Sandymount & Environs Architectural Conservation Area**. Relevant policies and sections of the Development Plan are set out below:

Section 8.1 New Development - *New development within Architectural Conservation Areas should be so designed so as not to constitute a visually obtrusive or dominant form of development. New alterations and extensions should complement existing buildings/structures in terms of design, external finishes, colour, texture, windows/doors/roof/chimney/design and other details.*

Policy POL 1 - *To protect and conserve the character and setting of the ACA, as set out in this document. Dublin City Council will seek to ensure that future development proposals will respect and complement the unique character of Sandymount Village, including the setting of protected structures, and also to comply with development standards.*

5.2. Natural Heritage Designations

5.2.1. The site is not located within a designated Natura 2000 site.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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. The first party appeal against the decision to refuse permission has been prepared and submitted by AKM Design on behalf of the applicant and may be summarised as follows:

- There is clear justification for the demolition of the existing building. It is located within an ACA and fails to meet any of the DoAHG criteria in relation to the architectural merit required for protected structures.
- The proposal does not have any adverse impact on adjoining residential amenity

- The proposal is modest in appearance and is in keeping with the general scale and character of the area
- The proposed development is visually acceptable and does not interfere with the visual amenities of the area.
- The replacement of the existing building with a higher quality more energy efficient building is supported by the Dublin City Development Plan
- The proposal fully complements the scale of adjoining properties and complements the character of the Sandymount ACA. There is a wide variation in terms of design within the Sandymount ACA with a variety of heights, styles and finishes.
- The proposed materials and finishes reflect the local context and are acceptable. The majority of buildings in Sandymount are comprised of brick from different periods of time. The use of bricks should be encouraged in new buildings in this area given the history of Sandymount that used to be known as “brickfield”.
- Most shopfronts within the Sandymount ACA date from the late 20th century. The shopfront and signage complies with the Dublin City Council shopfront design guide.
- The proposed two storey building has a flat roof to help reduce overall height, bulk and scale. It is proposed to position services within the roof void at attic level and clad this small part of the roof with high quality standing seam zinc.
- The Dublin City Council Plan recommends that ground floor commercial units should have floor to ceiling heights of circa 4 – 5 m for desing, use and adaptability reasons. The proposed 2 storey building is well below this standard at 3m floor to ceiling given its location within the ACA.
- There is a rich variety of window types in Sandymount, many of them still retaining their original timber sash and casement windows. The proposed windows and doors are broadly in keeping with the adjoining buildings window and door ope heights.

6.1.2. The appeal was accompanied by a Photographic Survey of Sandymount ACA (July 2020) providing a review of other comparable buildings in the ACA area and revised drawings setting out the following minor design amendments:

- Removal of the bin store door from the shopfront and relocation internally

- Removal of the service element of the roof / parapet detail

6.2. **Planning Authority Response**

6.2.1. No response recorded on the appeal file.

6.3. **Observations**

6.3.1. There are 4 no observations recorded on the appeal file from (1) Beirne Dunne, (2) Peter Bark, (3) Zak Reilly and (4) Nigel Bennett. The issues raised relate to supporting the refusal by DCC and the impact to the special character of this architectural conservation area.

6.4. **Further Responses**

6.4.1. There are no further responses recorded on the appeal file.

7.0 **Assessment**

7.1. This assessment is based on the plans and particulars submitted to DCC on the 28th February 2020 as amended by plans and particulars submitted with the first party appeal to An Bord Pleanála on the 15th July 2020.

7.2. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Visual Amenity
- Depreciation of Property Values
- Appropriate Assessment.
- Other Issues

7.3. Principle

- 7.3.1. The appeal site is wholly contained within an area Zoned Z3 Neighbourhood Centre where the objective is to provide for and improve neighbourhood facilities and where retail and office use is a permissible use. As documented the proposed scheme is replacing an existing commercial property. Accordingly, I am satisfied that the principle of the proposed uses is acceptable at the location.
- 7.3.2. Notwithstanding the acceptance of the uses proposed it is also intended to demolish the existing single storey commercial property. While the building is not a protected structure it is located within a designated Architectural Conservation Area and therefore consideration of its demolition is required. The building, while modest in appearance does not display any obvious architectural or historic merit and its scale and elevational treatment is at odds with the general scale and character of the area. Further the building does not appear to be an exemplar of a building type, plan form, style or styles of any period nor is there anything to suggest that the interior is of any special interest. Overall, I do not consider that the building has any significant architectural merit or associated features that contribute to such an extent that its retention would be warranted.
- 7.3.3. While there is no objection to the demolition of the existing building I would draw the Boards attention to Policy CHC5 that states that where an existing structure is considered to make a neutral or negative contribution to an Architectural Conservation Area the City Council will encourage inter alia *its demolition and replacement with a high-quality building with enhanced environmental performance*. The policy further states that in all cases, demolition will only be permitted inter alia where *any replacement building will be of exceptional design quality and deliver an enhancement to the area*. Accordingly, the demolition of the existing building is predicated on the further consideration of the proposed replacement building below.

7.4. Visual Amenity

- 7.4.1. Dublin City Council in their reason for refusal stated that the proposed scheme would result in *an unacceptable visual impact on this prominent site within the Sandymount & Environs Architectural Conservation Area by virtue of its nature and design and the*

poor quality materials proposed and that it would contravene Policy CHC4 which seeks “To protect special interest and character and distinctiveness”.

7.4.2. There are multiple policies and objectives within the Development Plan that seek to ensure the highest standards of built development are brought to fruition and that designated ACA’s are protected from inappropriate development. In this context Policy CHC4 requires that *development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.* The full wording of this policy is provided in Section 5.1 above. It is noted that the policy also identifies a number of enhancement opportunities together with what a development should not do. I have considered the proposed scheme as amended and I would set out the following with regard to the policy criteria set out in Policy CHC4:

- As stated, the building to be demolished is not considered to be of any particular architectural merit and does not of itself make any significant contribution to the character of the area
- The demolition would not involve the loss of a traditional, historic or important building form, feature or detailing such roofscapes, shop-fronts, doors, windows and other decorative detail
- The amended scheme is sympathetic in design and materials while also respecting and complimenting the prevailing scale, architectural language and degree of uniformity of the adjoining buildings. I am satisfied that the scheme is designed so as not to constitute a visually obtrusive or dominant form of development. Further the amended scheme will not harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area

7.4.3. Overall, I consider that the proposed development would complement and enhance the character and setting of the ACA and that to permit same would not detract from the visual amenities of the ACA. Further I am satisfied that to permit the proposed development, as amended would not contravene Policy CHC4. Accordingly, it is recommended that permission be granted for the demolition and redevelopment of this site.

7.5. Depreciation of Property Values

7.6. DCC in their reason for refusal state that the proposed development would depreciate the value of property in the vicinity. The scheme before the Board is for a commercial development within a serviced urban area where such developments are considered a permissible use and where it is reasonable to expect developments of this kind would normally be located. Having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity. Accordingly, I am satisfied that this matter is not material to the consideration of this appeal

7.7. Appropriate Assessment

7.8. Having regard to the nature and scale of the development and its distance 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.

7.9. Other Issues

7.10. **Construction Impact** – I note the concerns raised with regard to the proposed construction works. There will inevitably be disruption during the course of construction, however this will be a short-term impact and as such can be minimised to acceptable levels with appropriate standard working / construction procedures such as controlling construction hours, dust minimisation etc. Overall, I am satisfied that these matters can be dealt with by way of suitably worded condition requiring the submission of a construction management plan for agreement. With the attachment of such a condition I do not consider that the construction phase of the development would give rise to an unreasonable impact on neighbouring properties in this instance.

7.11. **Development Contributions** – Dublin City Council made a Development Contribution Scheme in accordance with the provisions of Section 48 of the Planning and Development Act 2000 as amended on 2nd March 2020; Dublin City Council Development Contribution Scheme 2020-2023. Section 12 outlines developments

that will be liable for a reduced rate of development contributions under the Scheme which includes the following:

Where an applicant is granted permission to demolish in part or in full an existing building and replace with another, then the development contribution payable is to be charged on the net additional floorspace created;

7.12. As documented in the foregoing and recorded in the application form the stated floor area of building to be demolished is 72sqm. The stated floor area of the proposed scheme is 114sqm. The net additional floor area of 42sqm is liable for a development contribution. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

8.0 Recommendation

8.1. I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be **GRANTED** for the following reasons and considerations.

9.0 Reasons and Considerations

9.1. Having regard to the residential zoning of the site in the Dublin City Development Plan 2016 – 2022, the pattern of development in the area and the layout of the scheme, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the Sandymount & Environs Architectural Conservation Area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance 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 plans and particulars received by An Bord Pleanála on the 15th day of July, 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 and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<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.</p>
4.	<p>The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health</p>
5.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p>Reason: In the interest of visual amenity</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400</p>

	<p>hours 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>
7.	<p>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 noise management measures and off-site disposal of construction/demolition waste including any excess soil arising from the proposed excavation of the site.</p> <p>Reason: In the interests of public safety and residential amenity</p>
8.	<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 and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. 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 Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

Mary Crowley

Senior Planning Inspector

15th October 2020