



An
Bord
Pleanála

Inspector's Report ABP 307928-20.

Development	Two storey rear extension at back of main pub at back or permitted development under P.A. Reg. Ref. 4690/18 with ground floor being retained.
Location	Nos 27 and 28 Mount Pleasant Avenue Lower, Rathmines, Dublin 6.
Planning Authority	Dublin City Council
P.A. Reg. Ref.	2799/20.
Applicant	Hermitage Construction and Development Ltd.
Type of Application	Permission
Decision	Grant Permission.
Type of Appeal	Third Party
Appellant	Pauline Hall.
Observers	Rathmines Initiative
Date of Site Inspection	20th November, 2020.
Inspector	Jane Dennehy

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1.0 Site Location and Description

1.1. The site of the proposed development is that of a brick faced Edwardian public house (circa 1910) with residential accommodation overhead located on the west side of Lower Mount Pleasant Avenue extending westwards behind residential properties facing onto Bessborough Place to the north. To the south side there is a two-storey building in residential and commercial use. Richmond Hill is located to the south and the pedestrian access beneath an arch and the rear boundaries of properties on Mount Pleasant Square are to the east. A contemporary designed three storey dwelling, the property of the appellant party adjoins the northern gable wall (No 28a) at the corner of Bessborough Place.

2.0 Proposed Development

2.1. The application lodged with the planning authority indicates proposals for the construction of an extension at the rear of a permitted development.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. By order dated, 24th July, 2020 the planning authority decided to grant permission subject to conditions. Under Condition No 4 there is a requirement for rear wet elevation windows for a cloakroom and store to be obscure glazed.

3.1.2. The planning officer indicates satisfaction in her report that proposed development is a subordinate addition to the development on site and is a reduced height development relative to a prior proposal which included a terrace

3.1.3. A submission was lodged by the appellant party indicating concerns about sunlight and daylight access, excessive scale height and massing and adverse impact on residential amenities of the adjoining property.

4.0 Planning History

4.1. **P. A. Reg. Ref. 4033/19:** Permission was refused for a) The construction of a new duplex apartment at the back including all associated new doors, fenestration

and roof terrace. This is an addition to the proposal in application number 4690/18, decision number P2643 dated and approved on the 22/02/2019. b) On completion the total development will consist of the previously granted 1 no. 2 bed flat at second floor level, 2 no. one bedroom flats at first floor level, 1 no. 2 bedroom flat at third floor level and the new duplex 1 bed apartment at the rear on first and second floors. The licenced premises on the ground floor to be retained based on the following two reasons.

1. *“Having regard to the height and depth of the proposal including the proposed roof terrace, it is considered that the proposed additional two storey development would be visually obtrusive and would be out of character with the setting of this prominent building. Therefore, it would materially and negatively impact the visual amenity of the streetscape and would seriously injure the amenities of the character of the area. The proposed development would therefore contravene the zoning objective ‘Z1’, to protect, provide and improve residential amenities and objectives of the Development Plan and be contrary to the proper planning and sustainable development of the area.”*

2. *Having regard to the impact of the proposed development on the residential units already permitted on the site, in particular the loss of bin and storage areas, the scale of the proposed roof terrace and the addition of new window openings on the rear and side elevations, it is considered that the proposed development would reduce the residential amenity of occupants of those residential units already permitted, and would be seriously injurious to the residential amenities of neighbouring properties by reason of noise and overlooking. The proposed development would be contrary to the proper planning and sustainable development of the area.”*

4.2. **P. A. Reg. Ref. 4690/18:** Permission was granted for a) Demolition of the existing roof and reroofing of the front of the building, the construction of a new setback two bedroom apartment at third floor level, including all associated new access stairs, fenestration, dormers, rooflights and terrace at the rear of the property. b) Revision of the ground floor level licensed premises to provide for, by way of the revision of the existing pedestrian access onto Mount Pleasant Lower, bike store and bin store facilities on the ground floor to the rear of the site. c) On completion the total development will consist of the previously granted 1 no. 2 bedroom apartment at second floor level, new 1 no. 2 bedroom apartment at third floor level, the existing 2

no. one bedroom units at first floor level and the existing licensed premises at ground floor level, providing a total of 4 apartments and the licensed premises.

- 4.3. **P. A. Reg. Ref. 2390/18:** Permission was refused for (a) The demolition of the existing roof and the reroofing to the front of the main building and the construction of a new set back, two-bedroom dormer apartment at third floor level, including all associated new access stairs in new return to rear, fenestration, dormers, rooflights, and terrace of the property. b) Revision of ground floor level licensed premises to provide for, by way of the revision of the existing pedestrian access onto Mount pleasant Avenue Lower, bike store and bin store facilities on the ground floor to the rear of the site. c) On completion the total development will consist of the previously granted 1 no. 2 bedroom apartment at second floor level, new 1 no. 2 bedroom apartment at third floor level, the existing one bedroom units at first floor level, and the existing licences premises at ground floor level providing a total of no. four apartments in total, along with the licensed properties for reasons of adverse visual impact, and substandard attainable residential amenities.
- 4.4. **P. A. Reg. Ref 2942/17** – Permission was granted for the change of the existing second floor level offices and ancillary mid-level landing spaces to provide 1no. two-bedroom apartment.
- 4.5. **P. A. Reg. Ref. 2004/16 / PL 246364:** The planning authority decision to refuse permission under was upheld following appeal for demolition of some single storey structures, reconfiguration of existing first floor apartment development and construction of a two, three and four storey extension providing for a total of seven dwellings on the site along with parking provision and cycle storage. The reason cited is that of substandard overdevelopment injurious to the character of the existing landmark building and contravention of section 17.10.5 of the CDP which provides for the sensitive retention and re-use of older buildings and section 5.9 of the CDP on infill development.
- 4.6. **P. A. Reg. Ref.3147/13 / PL 242655:** The planning authority decision to refuse permission for (a) change of use from offices to two apartments at second floor and rear elevation alterations to provide balconies and access to storage, and (b) elevation changes to rear the existing first floor apartments to provide screened enclosed private open space balcony to each apartment was upheld following appeal for reasons of substandard attainable residential amenity and conflict with

‘Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities, (2008)’ issued under Section 28 of the Planning and Development Act, 2000 as amended.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Dublin City Development Plan 2016-2022 according to which site is within an area subject to the zoning objective Z1: “To protect, provide and improve residential amenities.”

Objective QH 8 provides for higher density development which respects the character of surrounding development on vacant or under-utilised sites.

Development Management Standards for residential development are set out Chapter 16 with guidance and standards for residential quality in section 16.10.2 and guidance and criteria for infill developments in sections 16.10.8 and 16.10.10.

The location is within ‘Area 2’ for parking standards as set out section 16.1 with a maximum requirement of one space per dwelling.

5.2. Section 28 Statutory Guidance.

5.2.1. The policies and standards within the following statutory guidelines are applicable.

Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009 (and accompanying ‘*Urban Design Manual: A Best Practice Guide*’)

“*Sustainable Urban Housing: Design Standards for New Apartments*” (2018)

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was lodged by Armstrong Planning on behalf of Ms Hall, the appellant on 14th August, 2020. It is requested that permission be refused. Ms Hall is the owner

occupier of No 28A Mount pleasant Avenue Lower, a contemporary house with a stated floor area of 160 square metres constructed on a site of eighty-eight square metres in 1999. It adjoins the northern boundary abutting the existing building.

According to the appeal:

- It is clear, based on review of the drawings that a three-storey extension at a total height of ten metres is proposed. As public and newspaper notice description is inaccurate and misleading permission should be refused. The proposed development is a “5.5 metres deep, rearward, three storey extension”.
- The proposed development is overdevelopment of a constrained site due to excessive scale and massing and an increase in depth of the building by 34.5%. This enlargement and height adversely impact the residential amenities of the appellant party’s property and this is contrary to section 17.3 of Appendix 17 of the CDP providing for the protection of residential amenities of adjoining properties.
- The proposed development overbears and obstructs, to an unacceptable degree, access to light to the appellant party’s property which was specifically designed to maximise natural lighting corresponding the path of the sun with the accommodation being wrapped around three external spaces at ground floor level at the rear, first floor and second floor levels. No sunlight and daylight analysis, which would be essential to the assessment, was included with the application. The proposed additional extension, to the permitted development is insensitive to and would alter the character, the natural lighting and amenity of No 28A and is contrary to section 16.2.2.3 (Alterations and Extensions) and 16.2.1 (‘Design Principles’) and 16.2.1.1. (‘Respecting and Enhancing Character and Context’.) of the CDP.
- Permission was refused for a development proposal similar to the current proposal in 2018. (P. A. Reg. Ref. 2004/16 / PL 246364 refers)

6.2. Applicant Response

6.2.1. There is no submission on file.

6.3. Planning Authority Response

6.3.1. There is no submission on file.

6.4. Observation - Rathmines Initiative

6.4.1. A submission was lodged by Michael Kelly on behalf of Rathmines Initiative indicating support for the appeal grounds. It is stated that there is a lack of clarity in the application details and that the appellant property is worthy itself of being included on the record of protected structures and that its 'setting' should be assessed.

7.0 Assessment

7.1. The public house (Corrigans) to which the extensions and alterations are proposed is a fine Edwardian building, of significant architectural merit and interest and, a landmark building taller and larger building than its neighbours within the streetscape, reflecting a likely prior historic use and prominence as an inn within the area.

7.2. The appellant is the owner occupier of a contemporary three storey dwelling of high-quality design located on the corner abutting the north gable end wall of the public house building and overlooking Bessborough Parade. It incorporates a roof garden and lightwell, and a first-floor level and ground level external spaces overlooked and enclosed by three sides of the dwelling.

7.3. The application is for permission for additions to a development permitted under P. A. Reg. Ref. 4690/18 which has not been constructed. The proposal under P. A. Reg. Ref. 4690/18 as indicated in the report of the planning officer was a repeat application further to a prior refusal of permission under P. A. Reg. Ref. 2390/18. The planning officer commented that the subject proposal, subsequently permitted, subject to minor amendments to be implemented by condition was a "much improved proposal" and the decision to grant permission was not appealed.

7.4. The current proposal is also a repeat, revised application in which the applicant seems to address the prior reason for refusal of permission for an extension to the

permitted development under P. A. Reg. Ref. 4690/18 by omission of a roof terrace and a reduction in height from 1078 mm to 9930 mm.

- 7.5. However the depth at first and second floor levels at the rear is increased from 3380 mm as permitted to 5160 mm to 5548 mm resulting in an increase in depth to the rear of the somewhat shallow original building to circa 9800 mm at the upper levels. The proposed development otherwise provides for a similar enlargement of the permitted development providing for staff accommodation and storage space for the public house.
- 7.6. It is considered that the proposed extension in conjunction with the permitted extension is acceptable within the context and setting of the existing Edwardian building and within the streetscape in views on approach from all directions. The concerns in this regard with regard to scale and height relative to the existing building leading to the refusal of permission P. A. Reg. Ref. 4690/18 are satisfactorily addressed in the current proposal. Contrary to the assertions in the appeal that the proposed development would not be in conflict with any CDP policies and objectives in this regard.
- 7.7. The statement in the appeal as to the absence of a comprehensive sunlight and daylight study amongst the application documentation is reasonable. It can be demonstrated and clarified as to whether and, to what extent the vertical sky component and the daylight and sunlight access to the external spaces and to internal habitable accommodation at the appellant property would be altered, relative to the permitted development under P. A. Reg. Ref. 4690/18, having regard to standards in BRE guidelines.
- 7.8. The appellant party's dwelling benefits from generous fenestration on the north and east elevations and a lightwell at roof level. However, the increase in depth to the permitted infill westwards at the rear of the public house to a height of 9.93 metres would contribute to a minor impact of sense of enclosure from the south the west of the dwelling which, on balance would have a relatively insignificant effect overall on the residential amenities of the appellant property.
- 7.9. The proposed and permitted development is considered appropriate for an established inner suburban location in which there are infill developments interspersed into the historic local network of streets and lanes. The addition to the

permitted development, as proposed, is considered reasonable having regard to the infill nature of the appellant party's adjoining property and, to the inner urban serviced historic location where a wide range of services and facilities serving both residential and commercial development and the close proximity to the city centre are available.

7.10. The absence of on-site parking has previously been accepted by the planning authority and it is therefore considered that refusal of permission for the additional development within the current proposal would be unwarranted. The available parking in the immediate area is pay and display on street parking, including Mount Pleasant Square. It is not clear if residential permit parking would be available for residents.

7.11. Validity of the application.

7.12. In the appeal it is contended that the descriptions of the proposed development in the site and newspaper notices are inaccurate or misleading. It appears that no party has been substantively misled or disadvantaged in any way with regard to the entitlement to participation on the application process and that it is appropriate to assess and determine the appeal on the application. However, it is open to the appellant to pursue the matter through the legal process.

7.13. Environmental Impact Assessment Screening.

7.13.1. Having regard to the minor nature and scale of the development proposed for retention and its location in an area removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.14. Appropriate Assessment.

Having regard to the, the location of the site which is a brownfield site on serviced land and, to the nature and scale of the proposed development, no appropriate assessment issues arise, the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. In view of the foregoing, it is recommended that the planning authority decision to grant permission be upheld, based on the reasons and considerations and conditions set out below.

9.0 Reasons and Considerations

Having regard to the planning history, to the nature and extent of the proposed development, and to the established pattern and character of development in the vicinity, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously residential amenities of the adjoining property or the visual amenities of the area or in the vicinity and would be in accordance with the proper planning and sustainable development of the area.

10.0 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. The rear, west elevation windows at first and second floor levels shall be fitted with obscure glazing.

Reason: In the interest of the protection of the residential amenities of the adjoining property.

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

Reason: In the interests of visual and residential amenities.

4. 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.

5. The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

6. Arrangements for demolition and clearance of the site and for construction of the development shall be managed in accordance with a Demolition, Waste and Construction Management Plan which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:

Reason: In the interests of clarity, amenities and public health and safety and sustainable development.

7. Hours of work shall be confined to 0700 to 1900 Mondays to Fridays inclusive, excluding bank holidays and 0800 to 1400 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

Reason: In the interest of residential amenities of surrounding properties and clarity.

12. 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 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.

Jane Dennehy
Senior Planning Inspector
3rd December, 2020.