



An
Bord
Pleanála

Inspector's Report

ABP-308524-20

Development	Extension to 2 storey home comprising of 2nd floor bedrooms and setback bedroom penthouse above.
Location	14D Poplar Row, corner of Poplar Row and Annesley Bridge, Dublin 3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3160/20
Applicant(s)	Conor Milroy
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First Party vs. condition
Appellant(s)	Conor Milroy
Observer(s)	None
Date of Site Inspection	8 th December 2020
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The site is located at the junction of Poplar Row and Annesley Bridge, approximately 1.5 km northeast of the city centre. The north-eastern site boundary adjoins the banks of the Tolka River and there is an existing 2-storey dwelling to the northwest. The site itself contains a flat-roof 2-storey 3-bedroom dwelling, which has a redbrick finish facing the adjoining roads. The elevations facing the river and the northwest have a white rendered finish. The building presents a relatively blank façade, with the ground floor level being largely screened by an existing boundary wall and the first floor level lacking in architectural animation.
- 1.2. To the east of the site, North Strand Road / Annesley Bridge is a heavily trafficked mixed-use route which separates the site from Fairview Park. To the south, on the opposite side of Poplar Row, is a mix of low-rise commercial / warehousing buildings, some of which have recently been demolished to facilitate the commencement of larger scale development. Further west along Poplar Row several residential buildings of 4+ storeys can be found.

2.0 Proposed Development

- 2.1. In summary, the development comprises the construction of an extension above the existing 2-storey dwelling as follows:
 - New 2nd floor bedroom level with balconies;
 - Setback 3rd floor bedroom penthouse with balconies;
 - All associated siteworks.
- 2.2. The floor area of the existing house will be increased by 89.3 sq.m. to a gross floor area of 216.6 sq.m., including one additional bedroom. The two additional floor levels would mean that the height of the dwelling will be increased from 6 metres to 11.33 metres. The footprint of the dwelling will be unchanged.

3.0 Planning Authority Decision

3.1. Decision

By order dated 1st October 2020, Dublin City Council (DCC) issued notification of the decision to grant permission. The only notable condition of the decision was condition no. 3, which reads as follows:

'The proposed penthouse floor and associated balconies shall be omitted. Prior to the commencement of development, revised plans shall be submitted, illustrating the omission of the proposed penthouse floor and associated balconies'.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report can be summarised as follows:

- Previous concerns in relation to the unauthorised design and materials of the house have been remedied through compliance with an Enforcement Notice.
- Significant concerns remain in relation to the proposed design, which would be visually incongruous when viewed from Poplar Row and Annesley Bridge.
- The development, particularly the upper level, would fail to be subordinate to the existing dwelling.
- Subject to the omission of the upper level, there would be no unacceptable overlooking, overbearing or overshadowing impact on surrounding properties.
- A grant of permission is recommended, subject to the amendments as outlined in condition no. 3 of the notification of decision.

3.2.2. Other Technical Reports

- Drainage Division: No objections subject to standard conditions.

3.3. Submissions / observations

No submissions from prescribed bodies or the public are evident on the file.

4.0 Planning History

4.1 The following applies to the appeal site:

P.A. Ref. 3334/07: Permission granted for demolition of existing buildings and construction of an 8-storey over basement building comprising 27 apartments and ground floor offices and bistro facilities.

P.A. Ref. 3199/15: Permission granted for demolition of single storey storage building and the erection of a 2-storey detached 3-bedroom dwelling.

P.A. Ref. 2484/19: Permission refused for a 2-storey extension above the existing dwelling. The grounds for refusal can be summarised as follows:

- 1) The existing development has not been completed as permitted, is unacceptable in respect of its design and materials, and is visually intrusive.
- 2) The proposed design would be visually incongruous and detrimental to the visual amenity of the area.

4.2 The following applies to a site immediately opposite the appeal site, at the corner of Poplar Row and North Strand Road:

P.A. Ref. 3601/18: Permission granted by DCC for five-storey 14 number apartment development with ground floor commercial/cafe unit.

ABP Ref. 305293-19: Permission refused for amendment to planning reference number 3601/18 for the increase in height to eight-storey building consisting of 20 number apartments. The refusal was on the grounds that the amendment would be visually obtrusive / incongruous and would fail to integrate successfully with the existing streetscape, the character of the area and the overall built environment.

P.A. Ref. 2213/20: Permission granted by DCC for amendment to Ref. No. 3601/18 to provide increased height to 6-storey building with 17 apartments.

4.3 The following applies to a site at 3 Poplar Row:

P.A. Ref. 3900/18: Permission granted to demolish existing commercial building and construct six storey building consisting of 39 apartments.

ABP Ref. 305603-19: As part of a split decision, permission refused for the construction of an additional floor to increase from 39 apartments permitted under

planning register reference number 3900/18 to 46 apartments. The refusal was on the grounds that the amendment would be visually incongruous and would fail to integrate successfully with the existing streetscape, the character of the area and the overall built environment.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative Development Plan for the area is the Dublin City Development Plan 2016-2022. The majority of the site is zoned as 'Z1', the objective for which is '*To protect, provide and improve residential amenities*'. A narrow section at the rear of the site along the river is zoned as 'Z9', with the objective to '*preserve, provide and improve recreational amenity and open space and green networks*'.

5.1.2 Section 16.2.2.3 of the Plan is part of the general design standards and principles. It deals with 'Alterations and Extensions', which should be designed to respect the existing building, its context and the amenity of adjoining occupiers. Of relevance to the current application, it is stated that development should:

- Respect street uniformity, patterns and rhythms
- Retain a significant portion of garden / yard / enclosure
- Not detract from the architectural quality of the existing building
- Be confined to the rear in most cases
- Be clearly subordinate to the existing building in scale and design

5.1.3 Section 16.10.12 deals more specifically with 'Alterations and Extensions to Dwellings'. In summary, it is recommended that proposals should respect the visual amenity / character of the area and should protect the residential amenity of adjoining properties. Appendix 17 'Guidelines for Residential Extensions' sets out more detailed advice and principles in this regard.

5.2 Natural Heritage Designations

The nearest designations to the site are North Dublin Bay pNHA and South Dublin Bay and River Tolka Estuary SPA, both located approximately 500 metres southeast of the site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 This first party appeal solely seeks to remove condition no. 3 of the DCC decision, which states that the proposed development shall be amended as follows:

‘The proposed penthouse floor and associated balconies shall be omitted. Prior to the commencement of development, revised plans shall be submitted, illustrating the omission of the proposed penthouse floor and associated balconies’.

6.1.2 The grounds of the appeal can be summarised as follows:

- The planning history of the site and surrounding area is outlined, particularly the existing permissions for 6-storey buildings.
- The ‘Solar Shadow Study’ submitted with the application clearly shows no adverse impact on the neighbouring property to the west. The permitted 6-storey development (P.A. Ref. 2213/20) is included in this study and will have more of a shadowing impact than the current proposal.
- The exterior of the existing building lacks character and the interior is in need of improved living accommodation.
- The design of the upper extension, including materials and finishes, addresses the concerns raised in the previous refusal and is appropriate for this prominent location.
- The revised internal layout provides improved living accommodation.
- The proposed extension twists the building around the corner in response to the flow of the site and traffic, whilst also protecting the property from traffic noise.

6.2. **Planning Authority Response**

None.

6.3. **Observations**

None.

7.0 **Assessment**

7.1. **Nature of the appeal**

7.1.1 The submitted appeal relates to condition no. 3 only, which requires the omission of top 'penthouse bedroom' floor. I am satisfied that the development is otherwise in accordance with the proper planning and sustainable development of the area, and that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted. My assessment will therefore be limited to the matters raised in relation to the terms of the condition, pursuant to the provisions of section 139 of the Planning and Development Act 2000 (as amended).

7.1.2 The stated reason for the application of condition no. 3 was '*To protect the visual amenity of the area*'. I also note that the planner's report referenced the issue of residential amenity regarding the top floor section. Having inspected the site and reviewed the drawings and documentation on file, I would concur that these are the only issues relevant to the condition.

7.2 **Visual amenity**

7.2.1 The concerns raised by the planning authority in relation to the design and scale of the extension are noted. However, having regard to the prominent corner location of the site; the absence of any appreciable architectural quality in the existing dwelling; and the scale and character of permitted development in the immediate vicinity; I consider that the site can accommodate the increased height and scale proposed.

7.2.2 The proposed 4-storey building would clearly be of a lower height and scale than the 6-storey developments permitted on the opposite side of the road, one of which has commenced construction. The site is also bounded by a busy 5-lane road to the east

and the Tolka River to the north, which further emphasise the capacity for increased scale and height.

7.2.3 In terms of design, the existing building is lacking in terms of legibility and animation. The form and massing of the building would be improved through the proposed inclusion of varied angular levels with improved zinc finishes and fenestration at the upper levels. Most pertinent to this appeal, I consider that the proposed 'penthouse' floor provides something of a focal point adjacent to this prominent junction.

7.2.4 In conclusion, I do not consider that the omission of the top floor is warranted on grounds of visual amenity. On the contrary I consider that its omission would result in a flat-roof 3-storey building that would be to the detriment of the proposed design.

7.3 Residential Amenity

7.3.1 The revised and extended internal living accommodation would result in a significantly improved level of residential amenity for the occupants. No additional footprint is proposed so there will be no loss of private open space.

7.3.2 In terms of impacts on surrounding properties, I consider that, due to the separation distances involved, the existing semi-detached properties to the northwest are the only relevant properties for assessment.

7.3.3 I note that the top floor would be setback from the northwest site boundary by a distance of c. 7.5 metres. The only openings on the western elevation of the top floor consist of an en-suite bathroom window and a maintenance access door serving solar panels. The balcony serving the top floor partially faces west but it is noted that this merely replicates the existing situation at first floor level and the permitted arrangement at second floor level. Having regard to the above I do not consider that the inclusion of the top floor would result in significant overlooking concerns.

7.3.4 I note the contents of the 'shadow study' submitted with the application, which offers a comparison between the impact of the existing situation and that proposed under the current application and the permitted 6-storey building to the south. In this regard the appellant contends that the proposed development will have no significant adverse impact.

7.3.5 Rather than an assessment of this or any other proposed development, the question presently before the Board relates to the impact of the top floor only. Having regard

to the setback of the top floor from the properties to the west, as well as its limited height and floor area, I do not consider that the inclusion of the top floor will have any significant impact in terms of overshadowing. For the same reasons, I do not consider that it will have any significant overbearing impacts on the existing properties to the west.

7.3.6 Having regard to the above, I do not consider that the omission of the top floor is warranted on grounds of residential amenity.

7.4 Conclusion

In conclusion, I am satisfied that Condition No. 3, requiring the omission of the top floor and associated balconies, would not be warranted as its inclusion would not impact on residential amenity or seriously detract from the visual amenities of the area.

8.0 Appropriate Assessment

8.1 An Appropriate Assessment Screening Report has been submitted with the application. The report acknowledges the location of the site beside the Tolka River, which ultimately drains to South Dublin Bay SAC (3.4km to the southeast), North Dublin Bay SAC (3.9km to the east), and South Dublin Bay and Tolka Estuary SPA (0.7 km to the east).

8.2 The report outlines that the development will connect to existing foul and storm water services and no appreciable increase in loading will occur, and that it is highly unlikely that any significant effects will arise from the construction activity.

8.3 The report states that there will be no habitat loss associated with the project and the site is suitably distanced from European sites to avoid any disturbance effects. The hydrological connection between the site and European Sites is acknowledged but it is considered that there will be no likely significant effects due to the limited scale of the project.

8.4 The applicant's AA Screening Report concludes that there will be no likely adverse impacts, alone or in combination, to any of the Natura 2000 sites within the zone of influence of the proposed development.

8.5 Having regard to the minor nature of the proposed development, and to the location of the site in a serviced urban area and the separation distance to the nearest European site, I conclude that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on any European Sites in view of the sites' conservation objectives, and Appropriate Assessment including the submission of Natura Impact Statement is not, therefore, required.

9.0 Recommendation

I recommend that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted; that assessment should be limited to the matters raised in relation to the terms of the condition, pursuant to the provisions of section 139 of the Planning and Development Act 2000 (as amended); and that the Planning Authority be directed to REMOVE Condition no. 3 for the reasons and considerations set out hereunder.

Reasons and Considerations

Having regard to the residential land use zoning for the site, and to the pattern and character of existing and permitted development in the area, it is considered that the proposed extension, by reason of its scale, nature and design, and its location with respect to adjoining properties, would not detract from the character of the existing dwelling or the visual amenities of the area, and would not detract from the residential amenity of the existing dwelling or adjoining properties. Therefore, the planning authority's Condition No. 3, requiring the omission of the proposed penthouse floor and associated balconies, is not warranted.

Stephen Ward
Senior Planning Inspector

15th December 2020