



An
Bord
Pleanála

Inspector's Report ABP 309044-20.

Development	Demolition of Existing Structures and construction of a Mixed-Use Development with pedestrian access from Long Mile Road and Walkinstown Road.
Location	Lands and Buildings at part of former Halfway Public House, Junction Long Mile Road and Walkinstown Road, Dublin 12.
Planning Authority	Dublin City Council
P.A. Reg. Ref.	2759/20.
Applicant	Bo Vision Capital Ltd.
Type of Application	Permission.
Decision	Refuse Permission.
Type of Appeal	First Party X Refusal
Appellant	Bo Vision Capital Ltd
Date Inspection	6 th April, 2021.
Inspector	Jane Dennehy

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1.0 Site Location and Description

- 1.1. The site has a stated area of 352 square metres and is formed from lands on the west side of The Halfway House, a public house with frontage onto Long Mile Road and Walkinstown Road. There a boundary wall enclosing a gap at the side of the public house beside an office block (Manotherm) at Nos 2 and 4 Walkinstown Road to the south west side. At the time of inspection there was a single storey structure and vacant lands enclosed by walling within the site which has a gated entrance on the Long Mile Road frontage.

2.0 Proposed Development

- 2.1. The original application lodged with the planning authority indicates proposals for demolition of the existing structures which have a total stated floor area of 108 square metres and for construction of an apartment development comprising seven units in a three-storey block, flat roofed block with a stated gross floor area of 558.7 square metres and height of 9.6 metres. The accommodation to be provided consists of one studio unit, four one bed units one, one bed duplex unit and one two bed duplex unit. Private open space is provided for in the form of balconies and winter gardens. Pedestrian access is off the Long Mile Road and the Walkinstown Road and a landscaping scheme is shown at the entrance. The application also includes proposals for a sedum roof, bicycle parking, / mechanical plant room, bin storage, signage, associated drainage and site. No onsite parking is included in the proposal. The stated plot ratio is 1.58 and site coverage is 70%.
- 2.2. An additional information request, issued on 22nd July, 2020 regarding land use mix having regard to the 'Z4' zoning objective, juxtaposition with adjoining buildings and the visual impact within the streetscape, daylight sunlight analysis, parking, footpath provision and ccl paring, servicing and construction management.
- 2.3. In the further information lodged with the planning authority on .3rd November, 2020, two commercial units with a total stated floor area of 144 square metres are substituted for the three ground floor units and four, two bed apartments, two on each floor are shown for the upper two floors. Revisions to the second floor are proposed to address the junction with the Halfway House public house and included in the submission is a daylight sunlight study indicating satisfactory standards

achieved for the habitable rooms in the development, provision for a footpath along the frontage at ground floor level which is overhung by the upper floors, and eight cycle spaces for residents' use. No on-site parking to serve the development is included, a zero-parking policy being proposed

2.4. The application and or further information submission are accompanied by a Design Statement, sunlight and daylight analysis and revised drawings. Exemption certificate (Part 5), an outline mobility management Plan (MMP), Drainage calculations, including flood risk assessment, details for the proposed sedum and water supply and a construction traffic management plan. (CMP).

2.5. **Planning Authority Decision**

2.6. **Decision**

By order dated, 30th November, 2020 the planning authority decided to refuse permission based on the following two reasons:

“1. Having regard to the proposal for 4 no. 2 bed apartments and 2 no. commercial units and the form, scale and articulation of the facades of the development and the surrounding urban structure, it is considered that the proposal does not provide an appropriate transition in scale or have due regard to the nature of the surrounding urban morphology. The proposal would appear overbearing and incongruous on the streetscape. Furthermore it is considered that the proposal would have a negative impact on the development potential of adjoining property. The proposed development would therefore seriously injure the amenities of property in the vicinity and character of the area, would depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.”

“2) The proposed development of 4 no. 2 bed apartments and 2 no. commercial units with zero car parking in an area surrounded by uncontrolled on-street parking is not acceptable as it would result in congestion of surrounding streets and endanger public safety by reason of traffic hazard or obstruction of road users or otherwise, would set an undesirable precedent

and would therefore be contrary to the proper planning and sustainable development of the area.”

2.7. Planning Authority Reports

- 2.7.1. The report of the **Transportation Department** dated, 15th July, 2021 indicated recommended an additional information request in respect of footpath provision and access, servicing arrangements, car and cycle parking provision and mobility management and construction management.
- 2.7.2. The report of the **Transportation Department** dated, 25th November, 2021 indicated a recommendation for refusal of permission for the revised proposal based on lack of on-site parking provision and concerns regarding congestion and endangerment of public safety by reason of traffic hazard and undesirable precedent.
- 2.7.3. The report of the **Engineering Department (Drainage Division)** dated, 24th June, 2021 indicated no objection and standard conditions.
- 2.7.4. The **Planning Officer** in his reports indicates satisfaction with dwelling size and layout, private and communal open space provision but he also indicates concerns as to the design, form and mass in relation to adjoining structures and the surrounding area's character. He notes the concerns of the Transportation Department indicated in both its initial and final reports. Outstanding details regarding servicing and operational management are noted along with serious concerns with regard to the proposed overhang of the upper floors over the public footpath to the front of the proposed commercial units at ground floor level. Refusal of permission is recommended in the final report, based on the reasons attached to the Order.

2.8. Third Party Observations

- 2.8.1. Observations were lodged by: Manotherm Ltd., the adjoining development indicating objections to the proposed height and design and visual impact, the absence of parking provision and consequential impact on parking demand and traffic circulation affecting operations at Manotherm and in the area, lack of clarity regarding boundary

treatment, construction and maintenance and development potential of adjoining lands.

- 2.8.2. An observation lodged by the occupant of No 6 Walkinstown Road indicate objections relating to adequacy of the proposed access arrangements and the dwelling mix provided for in the application.

3.0 Planning History

P. A. Reg. Ref. 4390/17/ PL 301045: The planning authority decision to refuse Permission for the Demolition of all existing buildings/structures and construction of a three-storey office block and ancillary site works and services was overturned following appeal subject to standard conditions based on reasoning of consistency with the zoning objective and acceptability with regard to traffic and parking impact and impact on residential amenities. The Board's file is attached.

P. A. Reg. Ref 3768/14: Permission refused for Demolition of the existing buildings and the construction of a two storey Cafe (and a single storey, double height Drive Thru Restaurant including associated Drive Thru Lane, external yard and bin store and access off Walkinstown Road and with twenty eight car spaces, signage and ancillary development for reasons relating to conflict with the zoning objective with regard to land use mix and intensity of development of excessive circulation and ancillary space and for reasons of serious injury to the residential amenities of surrounding properties and deprecation of property value due to noise and disturbance.

4.0 Policy Context

4.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022. (CDP)

Variation 7 incorporates the National Planning Framework and Regional Spatial Economic Strategy (RSES). It provides for identification and reuse of brownfield land and underutilised land well served by transport purposes; for building upwards rather than outwards and achievement of consolidation and compact city.

Policy QH8 promotes sustainable development of vacant or underutilised infill sites and favourably consider higher density which respects the character and design in the area.

The site is within an area subject to the zoning objective: Z4: *to protect and provide for mixed service facilities*

Indicative plot ratio is 2.0 and site coverage is eighty percent.

The site comes within Carparking Standard Area 2 and according to Table 16.1 two spaces are required for retail units and one space per residential unit.

4.2. **Strategic Guidance.**

Relevant statutory guidance issued under Section 28 of the Planning and Development Act, 2000 as amended are: Guidelines for Planning Authorities: *Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual'*, DOEHLG, 2009.

Current policies and standards for apartment development issued under Section 28 of the Planning and Development Act, 2000 as amended are in "*Sustainable Urban Housing: Design Standards for New Apartments*" (2018) (Apartment Guidelines, 2018)

5.0 **The Appeal**

5.1. **Grounds of Appeal**

An Appeal was received from CDP Architecture on behalf of the applicant on 22nd December, 2020 according to which:

- The further information lodgement satisfied all the aspects of the planning authority's request. The applicant should have been provided with another opportunity to address any issues through a clarification of additional information request.
- The current proposal is similar in scale, mass and height to the previous permitted proposal (following appeal) under P. A. Reg. Ref. 4390/17 (PL 301045). The inspector commented on national policy for facilitation of compact growth in built urban areas, is a positive contribution to the area and

accords with Policy QH8 of the CDP to promote sustainable development of vacant or underutilised infill sites and favourably consider higher density which respects the area. The plot ratio and site coverage are acceptable. The current proposal is higher quality than the previously permitted proposal in layout, land use and design.

- With regard to the streetscape, the building mass is broken into several elements, both vertically and horizontally, using a simple palette of materials and contemporary detailing providing for movement and transition on the elevations. (A copy of the Design statement and 3D visual are included with the appeal under Appendix B.) Consideration should be given to the grant of permission for a four storey over basement building in the vicinity under P. A. Reg. Ref. 2571/15 (PL 245055)
- With regard to the amenity of surrounding properties the planning officer notes no potential for undue overshadowing or overlooking as was the case also with previous proposal. There is no foundation for any claim as to potential for depreciation of value of properties. A suitable increase in density is proposed given the urban area and infill location.
- With regard to the second reason for the decision to refuse permission, relating to absence of parking provision for the proposed development, no issues arose in connection with the previous successful proposal a zero-parking strategy has been applied. Reference is made to remarks in the inspector's report as to the site size being insufficient for appropriate levels to be provided and that a development contribution could be sought from the applicant in lieu.
- The development should be "car free" due to the proximity to the LUAS Red line, future BusConnects which includes bus stops being located at the front of the public house and opposite the site and proximity to employment and local facilities. 'Go Car' facilities are also within a few minutes' walk from the site location.
- Future tenants or purchasers will be clearly advised as to the absence of onsite parking availability as provided for in the lodged Mobility Management Plan. Pay and Display parking is available opposite the Halfway House.

5.2. **Planning Authority Response**

5.3. There is no submission from the planning authority on file.

6.0 **Assessment**

6.1. The issues central to the determination of the decision can be considered under the subheadings below:

Development in Principle.

Density and Intensity of Development.

Visual impact and compatibility with surrounding development.

Traffic and Parking

Environmental Impact Assessment Screening.

Appropriate Assessment.

6.2. **Development in Principle.**

6.2.1. The mix of uses; commercial in two units at ground floor level and residential on the upper two floors as proposed in the response to the additional information request accords with the zoning objective and is appropriate for the district centre location in close proximity to residential development. It delivers development as encouraged in national policy on infill or underutilised sites in established urban areas providing for a compact city as envisaged in national strategic policy for land use in the National Planning Framework and provided for under Variation No 8 and Policy QH8 of the CDP. It represents an acceptable departure from the development subject of the extant grant of permission which provides for a three-storey block for commercial/office use in entirety.

6.2.2. **Density and Intensity of Development.**

6.2.3. The site configuration is restrictive resulting in constraints to achievement of a high quality relatively intensive development but the current proposal the CDP's indicative range for 'Z4' zoned lands, for site coverage at eighty percent and plot ratio at 2.0 exceeds stated site coverage at 70% and plot ratio at 1.58 for the proposed development.

- 6.2.4. The block is also satisfactorily designed with regard to the attainment of satisfactory standards for, size and layout of internal residential accommodation, private and communal landscaped open space provision access to daylight and sunlight, as demonstrated in the submitted sunlight and daylight study having regard to strategic guidance and CDP standards and with regard to prevention of undue overlooking or overshadowing of residential properties in the vicinity.
- 6.2.5. The planning officer in his report, indicates concerns as to impact of the first-floor balcony for Apartment No 2, screened to a height of 1.8 metres on the rear of the adjoining property to the south and its development potential. In its observation submitted at application stage, Manotherm objects on grounds of adverse impact on development potential for the land at the rear of the existing buildings at Nos 2-4 Walkinstown Road which are in commercial use and this site also has the benefit of the 'Z4' zoning objective. Omission of the balcony to address these concerns about development potential would result in no viable alternative option for private open space provision for the unit. Given the Z4 zoning, it would be unreasonable for there to be an expectation that consideration of development potential on adjoining sites should be in the context of potential residential development as provided for under a specific zoning objective for residential development and its associated standards.
- 6.2.6. The upper floors overhang the footpath to the front of the commercial units at ground floor shown in the further information submission. In terms of assurance as to continuing maintenance of the footpath on the frontage it is considered that taking in charge would be the preferred option. However, this is not feasible due to the overhang of the first and second floors and it is noted that the transportation department has indicated that a demarcation strip can be applied and has referred to responsibility for the maintenance the footpath along the frontage by the application as an option. This would give rise to some concern as to assurance as to ongoing maintenance of the footpath beneath the overhang which and is functional to pedestrian circulation within the public realm. However, any requirement for setback at the upper floors would result in the internal layout being problematic with the likelihood that adequate spatial provision for and configuration for two bedrooms would not be feasible.

6.3. Design, form, and Visual Impact.

- 6.3.1. Apart from the issues as to detail discussed above the contemporary design is complementary as an insertion into the established streetscape character, a three-storey block in a different design having previously been accepted under the prior grant of permission, (further to appeal).
- 6.3.2. The modifications in the further information submission at upper level abutting the Halfway House whereby the roof over the private space for the adjoining unit is omitted appears effective in providing for a gap and separation at the upper levels. However, as stated in the report of the planning officer, the further information submission is deficient in detail to demonstrate that the proposal is a feasible so that it can be confirmed that and it is a satisfactory solution. The applicant could, if the proposal is favourably considered be provided with an opportunity to address this prior to determination of a decision.
- 6.3.3. There is a diversity in quality, design and form and characteristics of the established building form within the area subject to the 'Z4', mixed use zoning objective the vicinity of the prominent junction at the Long Mile Road junction. It is considered the site which is within this area has the capacity to accept a new build block up to the height and length in its own distinct and contemporary design and selection of materials and finishes. Bearing this in mind, it is considered that the proposed development having regard to the revised elevations shown in the further information submission represent an acceptable infill within the Long Mile Road streetscape. The concerns of the planning officer to the contrary are therefore not supported.

6.4. Traffic and Parking.

- 6.4.1. There are serious concerns over the Zero parking policy for development of four two bed residential units and two commercial units, the parking requirements for which comes within Area 2 as provided for under section 16.1 of the CDP as shown in the further information submission providing for a combination of commercial and residential development having regard to the Z4 zoning objective.
- 6.4.2. The outline mobility management plan has been provided places significant reliance on the private carpark on Walkinstown Road opposite the proposed pedestrian access. However, this carpark is zoned for development, has been subject to prior planning application and a concurrent application. The availability of on street

parking is minimal on the street frontage, at surrounding commercial development and on street frontage within the local network of residential roads in the vicinity due to extensive development of vehicular entrances and front garden parking. With regard to the commercial development at ground floor level, it is considered that the proposed development would generate demand for stop offs and illegal and hazardous parking by customers close to the major junction. With regard to the residential units, it is considered that the proposed development would generate demand for long term 'overspill' parking within the area where there is little or no capacity.

- 6.4.3. Notwithstanding current and proposed options for public transport options, given the heavily trafficked suburban location it is considered that the zero-parking proposal is unacceptable due to this end the recommendations for refusal of permission in the final report of the Transportation Department is fully supported.
- 6.4.4. Separately, it is considered that the applicant has satisfactorily provided for cycle parking facilities both in quantum and in quality with regard to cycle parking and storage in the further information submission.
- 6.4.5. There is no objection to the proposals in the construction traffic management plan, subject to incorporation into a comprehensive construction management plan, to be submitted for agreement with the planning authority following appointment of a contractor, in the event of favourable consideration of the proposal.

6.5. Environmental Impact Assessment Screening.

Having regard to the nature of the proposed development and its location in a serviced urban 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.

6.6. Appropriate Assessment.

Having regard to the planning history for the site, the zoning objective, the location of the site is 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.

7.0 Recommendation

In view of the foregoing, it is recommended that the planning authority decision to refuse permission be upheld, based on the reason relating to the absence of any on-site parking provision and reliance on overspill parking on the public road network leading to congestion and traffic hazard.

Draft reasons and considerations are set out below.

8.0 Reasons and Considerations

The proposed development would endanger public safety by reason of traffic hazard or obstruction of road users due to the lack of provision for carparking to serve the development resulting in demand for parking on the surrounding road network where parking supply is restricted and uncontrolled and, would set undesirable precedent for similar development with zero parking provision. As a result, the proposed development would be contrary to the proper planning and sustainable development of the area.

Jane Dennehy

Senior Planning Inspector

26th April, 2021.