



An
Bord
Pleanála

Inspector's Report

ABP-310804-21

Development	Construction of a house.
Location	31a, Price's Place (formerly No.1 Price's Lane), Ranelagh, Dublin 6.
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2629/21
Applicant(s)	Ann McGovern
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Ann McGovern
Observer(s)	Katharina Pfuetzner & Joe Morrissey Eva Gill
Date of Site Inspection	28 th September 2021
Inspector	Mary Crowley

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	6
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	8
5.1. Development Plan.....	8
5.2. Natural Heritage Designations	8
5.3. EIA Screening	8
6.0 The Appeal	9
6.1. Grounds of Appeal	9
6.2. Planning Authority Response	10
6.3. Observations	11
6.4. Further Responses.....	11
7.0 Assessment	11
7.2. Principle	11
7.3. Residential Amenity	11
7.4. Traffic Safety	13
7.5. Appropriate Assessment	13
7.6. Other Issues.....	13

8.0 Recommendation..... 14

9.0 Reasons and Considerations..... 14

1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 31.73 sqm is located to the rear of No 30 and No 31 Ranelagh Road and the site appears to have originally been part of the rear garden of one of these properties at some stage. It is a small site with frontage to Prices Place. Two no 2 storey mews dwellings with an adjacent side garden area are located adjoining the subject site along Prices Place. The front of the appeal site faces south. The site is to the rear of a protected structure but is not within the curtilage or ownership of a protected structure.
- 1.2. 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 to re-build a two storey one bedroom cottage (36.27 sqm) on site of similar type cottage now demolished at 31a Prices Place. The site is to the rear of a protected structure but not within the curtilage or ownership of the protected structure. This development was previously granted planning permission which has since lapsed.
- 2.2. The application was accompanied by a cover letter that set out the following as summarised:
 - There was a previous application on site, lodged on 7th October 2020 that was refused permission. The applicant has addressed several items in the current application to satisfy both the Authority and the observations lodged by a third party.
 - A brief history of the site is also provided. This is set out in the appeal below.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council issued a notification of decision to refuse permission for the following 2 no reasons:

- 1) *The proposed development, by providing residential accommodation which would not have sufficient floor space in relation to the minimum floor area for a one bedroom unit, the limited single aspect of the development, the deficiency of private open space and lack of parking provision, would be contrary to the policies and objectives of the Dublin City Development Plan. The proposed development would therefore fail to provide an adequate standard of residential amenity for future residents and would be contrary to the proper planning and sustainable development of the area.*
- 2) *The proposed development is located in an area zoned Z2 with a stated zoning objective “to protect and / or improve the amenities of residential conservation areas”. Having regard to the established pattern of development in the area, it is considered that the proposed development by reason of its bulk, scale and massing and overall design, would cause an unacceptable level of overshadowing of adjoining residential properties. The proposed development would therefore, seriously injure the residential and visual amenities of the residential conservation area and 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 recommended that permission be refused for 2 no reasons relating to (1) inadequate standard of residential amenity for future residents and (2) overshadowing. The notification of decision to refuse permission issued by Dublin County Council reflects this recommendation.

3.2.2. Other Technical Reports

- **Drainage Divisions** – No objection subject to standard conditions set out in the report.
- **Road Planning Division** – Applicant is requested to review the design of the proposed dwelling to incorporate an entrance setback at the front door in order to reduce traffic safety concerns associated with pedestrian access and egress and traffic movements.

3.3. Prescribed Bodies

3.3.1. None

3.4. Third Party Observations

3.4.1. There are 2 no observations recorded on the planning file from (1) Eva Gill and (2) Katharina Pfutzner and Joe Morrissey.

3.4.2. The issues raised relate to unsupported planning history pertaining to the site, incorrect site size, traffic hazard, no proof of existence of previous property, cottage or mews, do drain study, no space for refuse / bin storage, impact to protection of conservation residential area, height and the resultant claustrophobic tunnel effect, no shadow / light study, no party wall, overlooking and loss of privacy, site not big enough to accommodate a house, inadequate kitchen space, no outdoor amenity, without any sort of set back the inhabitants privacy would be negatively impacted, loss of sunlight, loss of privacy and inadequate off street car parking would exacerbate parking elsewhere.

4.0 Planning History

4.1. **Reg Ref 3511/20** – Permission was refused on the appeal site to re-build a two storey one bedroom cottage on site of similar type demolished cottage. This site is to the rear of a protected structure but not within the curtilage or ownership of a protected structure. This development was previously granted planning permission which has since lapsed. The reasons for refusals are the same as the reasons set out in this appeal case.

1) The proposed development by providing residential accommodation which would not have sufficient floor space in relation to the minimum floor area for a one-bedroom unit, the limited single aspect of the development, the deficiency of private open space and lack of parking provision, would be contrary to the policies and objectives of the Dublin City Development Plan. The proposed development would therefore fail to provide an adequate standard of residential amenity for future residents and would be contrary to the proper planning and sustainable development of the area.

2) *The proposed development is located in an area zoned Z2 with a stated zoning objective “to protect and / or improve the amenities of residential conservation areas”. Having regard to the established pattern of development in the area, it is considered that the proposed development, by reason of its bulk, scale and massing and overall design, would cause an unacceptable level of overshadowing of adjoining residential properties. The proposed development would therefore, seriously injure the residential and visual amenities of this residential conservation area and be contrary to the proper planning and sustainable development of the area.*

4.2. **ABP PL29/5/60613 (Reg Ref 2412/82)** – The Board granted permission for the reconstruction of a mews. In said schedule it was stated that “it is considered that no material change in circumstances has taken place since permission was first granted on the 25th June 1973, for the propose development (Planning Register Reference Number 2097/72)

4.3. **Reg Ref 2845/12** – Permission refused to rebuild a two storey one bedroom cottage on site of a similar type demolished cottage at 31a Prices Place (formerly 1 Prices Lane) Ranelagh, Dublin 6. The site is to the rear of a protected structure, but is not within the curtilage or ownership of a protected structure. This development was previously granted planning permission which has since lapses. The reason for refusal is set out below:

1) *The development constitutes substandard development, by reason of its failure to meet the standards set out in Chapter 17.9 of the Dublin City Development Plan 2011 – 2017. The development does not meet the minimum floor area standard of 55 square metres for a one bedroom unit and its internal layout, aspect, deficiency of private open space and lack of parking provision will provide a poor level of residential amenity for its occupants. A grant of permission in this case would therefore be contrary to the Z2 zoning of the area which aims to “protect and / or improve the amenities of residential conservation areas, would set an undesirable precedent for similar such development and as such would be contrary to the proper planning and sustainable development of the area.*

- 4.4. **ABP PL29S.241055 (Reg Ref 2845/12)** – Permission granted for the above named development following an appeal to An Bord Pleanála against the Councils decision to refuse. It is noted that the Inspector recommended refusal however the Board decided to grant permission given the historical use of the site as a dwelling.
- 4.5. **Reg Ref 2845/12/X1** – Extension of duration refused in February 2018 for the above named application as it was considered that substantial works had been carried out prior to the expiration of the appropriate period.

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 on lands zoned Z2 where the objective is “*to protect, and /or improve the amenities of residential conservation areas*”.
- 5.1.2. Chapter 16 Development Standards
- Section 16.2.1 Design Principles
 - Section 16.10.16 Mews Principles
 - Section 16.10.10 Infill Development

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, located in a serviced urban area, 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 has been prepared and submitted by BGDA Architects and may be summarised as follows:

- Following a decision made by An Bord Pleanála (PL29S.241055) work commenced and a financial contribution of €5,170.00 was made to Dublin City Council. The remains of the original cottage was demolished. Work was then suspended pending the legal outcome of a family dispute which has since been resolved after many years resulting in the expiry of the permission. During the period of the dispute an application was made to Dublin City Council to extend the duration of the planning permission which was unfairly refused on the 21st February 2018. Copy of refusal attached.
- The applicants husband first applied for reinstatement of this cottage in 1972 and was refused by Dublin Corporation. The decision was appealed and permission was granted by the Minister of Local Government in June 1973. Reg Ref 2097/72 and Plan No 2243/72 refers. Copy of register attached. For various reasons the reinstatement work did not commence and a further planning application was made in 1982 which was refused permission. This decision was also appealed to An Bord Pleanála and was granted permission. Reg Ref PI29/5/60613 refers.
- Reinstatement work failed to take place once again as the applicant became seriously ill and died. The property was put on hold during this period until such time as his will was established. Had the applicant not become ill this cottage dwelling would no be reinstated and in existence.
- Since this cottage was an existing dwelling prior to the Planning Act of 1963 the Planning Authority reasons for refusal are irrelevant since there is no increase in the area of the original cottage and the applicant only requires to reinstate the building as it was previously.
- The dwelling will give rise to some overshadowing to the rear garden of No 30 Ranelagh Road, however consideration should be given to the fact that the

cottage was constructed at the same time as the two houses at 30 and 31 Ranelagh Road (prior to 1837) and was in existence until it was demolished in 2014 to facilitate the reinstatement of the cottage for which permission was granted in 2013.

- Several concerns highlighted by the third party observations including the height and roof over sailing the boundary by the introduction of a parapet wall have been addressed. Also specified that the use of a clay facing brick to compliment the external finish on the adjoining protected structures both in texture and in colour.
- With regard to boundary discrepancies a survey was carried out that concluded that the OS site maps were slightly inaccurate. However the slightly awkward boundaries of the property have been the same since the cottage was built and the discrepancies were such that it did not affect the overall applications.
- It is noted that the Planning Authority does not support off street parking in this conservation area. there is considerable public transport to service dwellings in this area which is encouraged by the Local Authority. Adequate space has been provided for both bin storage and bikes. The proposal provides an adequate level of habitable accommodation and storage space.

6.1.2. The planning application was accompanied by a cover letter prepared by the applicant's architect, Vincent Bacon, setting out the foregoing and also confirming that the same architect, personally surveyed this two storey cottage on 3rd October 1972 and made the first planning application for reinstatement. It is further stated that at that stage it was a two storey structure in poor repair with 25% of the slated roof damaged and first floor partly collapsed. The applicant also submitted an affidavit signed by Patricia Kinsella verifying the existence of the cottage prior to demolition.

6.2. Planning Authority Response

6.2.1. None

6.3. **Observations**

- 6.3.1. There are two observations recorded on the appeal file from (1) Katharina Pfuetzner & Joe Morrissey and (2) Eva Gill.
- 6.3.2. The issues raised relate to the unsuitable nature of the development, spatial inadequacy of the site and dwelling, inadequate kitchen space, inadequate amenity space, single aspect development, safe access and egress cannot be guaranteed, loss of sunlight, privacy and amenity to adjoining properties, no parking provision, the existence of a mews /cottage on this site is hearsay and not possible to achieve the minimum floor area of one bedroom unit to meet Development Standards on this site.

6.4. **Further Responses**

- 6.4.1. None

7.0 **Assessment**

7.1. 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
- Residential Amenity
- Appropriate Assessment
- Other Issues

7.2. **Principle**

- 7.2.1. The appeal site is wholly contained within an area Zoned Z2 where residential development is considered a permissible use in principle.

7.3. **Residential Amenity**

- 7.3.1. DCC in their first reason for refusal state that given the insufficient floor space in relation to the minimum floor area for a one-bedroom unit, the limited single aspect of

the development, the deficiency of private open space and lack of parking provision the proposed scheme would be contrary to the policies and objectives of the Dublin City Development Plan.

- 7.3.2. In terms of compliance with quantitative amenity standards I refer to the current Development Plan and the DoEHLG Quality Housing for Sustainable Communities Guide (2007). The proposed floor area is 36.27 sqm and is below the 44sqm overall floor area for a one-bedroom unit. The bedroom has a floor area of 8sqm and is below the 11.4sqm requirement for a 2-person 1 bedroom apartment. No storage area has been provided. While I note the concerns regarding the single aspect of the scheme, having regard to the location and proximity of the scheme to other residential properties a dual aspect development at this particular location may lead to negative impact on adjoining residential amenities. In terms of private open space the development fails to meet the minimum requirement of 15sqm per bedspace. Refusal is recommended.
- 7.3.3. With regard to the parking provision, I note that the Case Planner concluded that “*no car parking provision is considered acceptable in this instance*”. I am satisfied that given the availability of on street parking in the immediate area and proximity to public transport that taken together with the restrictive nature of the site that flexibility in the provision of car parking is considered appropriate. Accordingly, it is recommended that this element of the reason for refusal be set aside.
- 7.3.4. DCC in their second reason for refusal state that the proposed development by reason of its bulk, scale and massing and overall design, would cause an unacceptable level of overshadowing of adjoining residential properties. I note that no shadow analysis drawings have been submitted with the application. I agree with the Case Planner that an accurate analysis of the development is required in order to determine if undue impact in terms of overshadowing of the neighbouring residential properties would arise. However, in the absence of such information, I am reluctant to say definitively that the scheme would give rise to an “*unacceptable level of overshadowing*”. It is therefore recommended that this reason for refusal is set aside.
- 7.3.5. Notwithstanding the foregoing I accept the applicant’s submission that there was a two-storey cottage on this site that has since been demolished. I also note the reasons why a previously permitted development on the site was not executed. While the

proposed scheme currently before the Board does not meet relevant residential amenity standards it remains that this is urban site on zoned and serviced lands. This is a difficult site to develop given its location, proximity to other residential properties, its size and configuration. However, it is also my view that an amended scheme that demonstrates a clear understanding of context and an innovative response to the issues may be appropriate. This view is without prejudice to any future development proposals at this location as any future application would be considered from first principles and subject to the full rigours of the planning assessment process.

7.4. Traffic Safety

- 7.4.1. I note the report from DCC Road Planning Division where the applicant was requested to review the design of the proposed dwelling to incorporate an entrance setback at the front door in order to reduce traffic safety concerns associated with pedestrian access and egress and traffic movements. Given the substantial reasons for refusal as recommended above I do not propose to include this issue as a reason for refusal. However, it is recommended that any future application at this site should have regard to the recommendation of DCC Road Planning Division above.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the development in a serviced urban area 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.

7.6. Other Issues

- 7.6.1. **Development Contributions** – I refer to the Dublin City Council Development Contribution Scheme 2020-2023. Should the Board be minded to grant permission it is recommended that a standard Section 48 Development Contribution Condition be attached.

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 **REFUSED** for the following reasons and considerations.

9.0 Reasons and Considerations

- 1) The proposed development, by providing residential accommodation which would not have sufficient floor space in relation to the minimum floor area for a one bedroom unit and the deficiency of private open space, would be contrary to the policies and objectives of the Dublin City Development Plan. The proposed development would therefore fail to provide an adequate standard of residential amenity for future residents and would be contrary to the proper planning and sustainable development of the area.

Mary Crowley

Senior Planning Inspector

7th October 2021