



An
Bord
Pleanála

Inspector's Report 311552-21

Development	Demolition of a 83.7 m ² single-storey over basement building and construction of a new 2.4 m high boundary wall
Location	Milltown Park, Sandford Road, D 6
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3866/20
Applicant(s)	Sandford Living Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v. Decision
Appellant(s)	Cherryfield Avenue Upper Residents Association
Observer(s)	Paul Murphy
Date of Site Inspection	8 th September 2022
Inspector	Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.054 ha and is located at Milltown Park, Sandford Road, Dublin 6. The subject building forms part of the Jesuit Community Buildings on the Milltown Park site which is located at the junction of Sandford Road and Milltown Road.
- 1.2. The application site is generally bounded by open space and existing buildings within Milltown Park to the north, by open space and a car park to the south, by Milltown Road to the east and by Cherryfield Avenue Upper to the west, which is a residential street of 2-storey dwellings. A line of mature trees extends along the north-western boundary of Milltown Park to the rear of Cherryfield Avenue Upper / Lower.
- 1.3. The subject building is single-storey over basement in height and extends in a generally east-west direction across the site, connecting to 3-storey buildings at either end. The southern façade of the building is characterised by distinctive arched windows, with a red brick finish at the ground/1st floor level and a stone finish below at the basement level. The northern façade of the building is blank and is finished in red brick.

2.0 Proposed Development

- 2.1. The proposed development consists of the demolition of 83.7 m² of the “red brick link building” (single-storey over basement) which forms part of the Jesuit Community Buildings and the construction of a new 2.4-m-high boundary wall across the site from east to west. The proposed works to the red brick link building include the following:
 - (i) the demolition of a 3 no. bay section of façade and a section of roof.
 - (ii) the removal of a section of the internal floor area and provision of new internal stairs.
 - (iii) the removal of the existing “means of escape” external stairs from the roof.
 - (iv) the construction of a new gable wall and parapet over roof to match existing.
 - (v) a new external “means of escape” stairs from roof level and a new security fence to the “means of escape” stairs.

- 2.2. The development will also consist of hard and soft landscaping and all other associated site works (internally and externally) above and below ground.
- 2.3. The separation works are proposed on foot of revised landownership arrangements at Milltown Park. A boundary wall is proposed between the lands which are being retained by the Jesuit community, generally located to the south and south-west of the application site, and surplus lands which have been sold to the applicant. These lands are generally located to the north and north-east of the subject site.

3.0 **Planning Authority Decision**

3.1. **Decision**

- 3.1.1. Notification of the Decision to Grant Permission subject to 7 no. conditions issued on 7th September 2021.
- 3.1.2. All conditions are generally standard in nature.

3.2. **Planning Authority Reports**

- 3.2.1. **Planning Reports (2nd February 2021 and 7th September 2021)**
- 3.2.2. Following an initial assessment of the planning application, Dublin City Council's Planning Officer considered that the proposed works of demolition and alteration to the existing buildings were acceptable.
- 3.2.3. It was considered that **Further Information** was required in relation to the removal / retention of existing trees, with the applicant requested to submit (i) a tree survey, (ii) a tree protection plan, (iii) an arboricultural impact assessment, and (iv) an arboricultural method statement.
- 3.2.4. A response to the Request for Further Information was submitted by the applicant on 13th August 2021 which provided details of the retention of 14 no. trees and the removal of 11 no. trees (7 no. Category B, 3 no. Category C and 1 no. Category U). The planning application red line boundary was amended to include works to the proposed trees, increasing the site area from 0.054 ha to 0.082 ha.

3.2.5. Dublin City Council's Planning Officer considered that the applicant's response addressed the requested items of Further Information and recommended that planning permission be granted for the proposed development.

3.2.6. **Other Technical Reports**

3.2.7. **Engineering Department – Drainage Division:** No objection to the proposed development subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. **Irish Water:** None received.

3.4. **Third Party Observations**

3.4.1. A total of 5 no. third-party observations were made on the application by: (1) Keith Feighery, 46 Cherryfield Avenue Lower, Ranelagh, Dublin 6, (2) Armstrong Planning on behalf of Cherryfield Avenue Upper Residents Association, 16 Cherryfield Avenue Upper, Ranelagh, Dublin 6, (3) Philip O'Reilly, 18 Grosvenor Place, Rathmines, Dublin 6, (4) John McNamara, 12 Norwood Park, Dublin 6, and (5) Brenna Clarke, 29 Cherryfield, Ranelagh, Dublin 6.

3.4.2. The issues which are raised can be summarised as follows: (1) overall development vision for the site unclear, (2) loss of mature trees and landscape impacts not properly addressed in planning application, (3) proposed boundary too close to historic buildings, (4) compromised setting of historic buildings, (5) inappropriate replacement planting.

3.4.3. The submission from Cherryfield Avenue Upper Residents Association includes an Arboricultural Assessment prepared by JM McConville + Associates.

3.4.4. A representation was also made on the application by Cllr. Dermot Lacey.

4.0 **Planning History**

4.1. **ABP Ref. 311302-21:** Planning permission granted on 23rd December 2021 for a SHD comprising, inter alia, the demolition of 4,883.9 m² of existing structures and the construction of 671 no. residential units (604 no. BTR units and 67 no. build to sell units) and the demolition of the section of the red link building located within the SHD planning application boundary.

5.0 Policy and Context

5.1. Dublin City Development Plan 2016-2022

5.2. Land Use Zoning

5.2.1. The site is subject to land use zoning “Z15” (Institutional and Community) which has the objective “to protect and provide for institutional and community uses”.

5.3. Retention and Re-Use of Older Buildings of Significance which are not Protected

5.3.1. In assessing applications to demolish older buildings which are not protected, the planning authority will actively seek the retention and re-use of buildings/ structures of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city.

5.3.2. Where the planning authority accepts the principle of demolition, a detailed written and photographic inventory of the building shall be required for record purposes.

5.4. Trees

5.4.1. Dublin City Council will consider the protection of existing trees when granting planning permission for developments and will seek to ensure maximum retention, preservation and management of important trees, groups of trees, and hedges.

5.4.2. A tree survey must be submitted where there are trees within a proposed planning application site, or on land adjacent to an application site that could influence or be affected by the development.

5.4.3. The following criteria shall be taken into account by Dublin City Council in assessing planning applications on sites where there are significant individual trees or groups/ lines of trees, in order to inform decisions either to protect and integrate trees into the scheme, or to permit their removal:

- Habitat/ecological value of the trees and their condition
- Uniqueness/rarity of species
- Contribution to any historical setting
- Significance of the trees in framing or defining views

- Visual and amenity contribution to streetscape.

5.4.4. For applications where trees might be affected, the application should be accompanied by the following information:

- Tree survey
- Tree retention/removal plan
- Tree protection plan
- Details of retained trees and Root Protection Areas (RPA) shown on the proposed layout
- Arboricultural impact assessment Arboricultural method statement

5.4.5. Depending on the site, additional information may be required as detailed in section 16.3.3 of the development plan.

5.5. Natural Heritage Designations

5.5.1. None.

5.6. EIA Screening

5.6.1. Having regard to the nature and scale of the proposed development, comprising, inter alia, the partial demolition of an existing building and the construction of a 2.4 m high boundary wall, 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. A third-party appeal against the Planning Authority's Notification of the Decision to Grant Planning Permission for the proposed development has been lodged by Armstrong Planning on behalf of Cherryfield Avenue Upper Residents Association.

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

- The current application and the concurrent SHD application on the lands (ABP Ref. 311302) should not have been considered in isolation.
- Misrepresentation of trees and woodlands along western site boundary.
- The building which is proposed to be demolished could be suitable for roosting bats.
- No ecological impact assessment submitted.
- Proposed boundary wall would impact on existing ecological corridors and would be contrary to policy GI1 of the development plan in relation to green infrastructure networks.
- Planning Officer's report does not consider the protection of wildlife.

6.2. Applicant Response

6.2.1. A response to the appeal was submitted by Thornton O'Connor Town Planning on behalf of the applicant on 28th October 2021 which can be summarised as follows:

- The subject development proposes to provide a boundary wall between lands being retained by the Jesuit community and their surplus lands which have been sold to the applicant. The SHD application relates to the applicant's lands and therefore excludes any lands in the ownership of the Jesuits.
- There is no reason that the current application and the SHD application cannot be considered in tandem. Both applications are capable of being implemented independently.
- It is over-generous to describe the trees along the western site boundary as a woodland, given that this boundary consists of 2 no. planted rows of 35 early mature lime and cherry trees to an average height of 11 m.
- The proposed development will involve the removal of 1 no. early mature lime tree, which will have no impact on the integrity of the trees along this boundary and its function as an ecological corridor.

- The building which is proposed to be demolished is flat-roofed with no suitable roof space for roosting bats and therefore has low bat roost potential. The external brick work is smooth, with no cavities suitable for bat entry and windows are intact, allowing no entry point to the interior.
- Although Milltown Park has suitable habitat for badger, they do not appear to be making use of the site. The proposed planting of native trees and shrubs within the SHD planning application will benefit mammals, providing additional cover and foraging resources.
- Mitigation measures have been comprehensively considered as part of the SHD planning application. If the SHD application is not granted permission, the character of this site will remain the same, with the proposed boundary wall relating to only a minor portion of the site.

6.3. Planning Authority Response

6.3.1. None received.

6.4. Observations

- 6.4.1. An observation has been made on the appeal by Paul Murphy, 16 Cherryfield Avenue Upper, Ranelagh, Dublin 6. The issues which are raised can be summarised as follows: (1) premature decision pending a decision on the SHD application, (2) boundary wall will impact on passage of animals across the overall lands, (3) impact on bats, (4) protection of wildlife, mammals and habitats should not be left to the developer.
- 6.4.2. The observation includes copies of a review of the ecological assessments and an arboricultural review of the documents which accompanied the SHD application on the adjoining site as prepared by NM Ecology and Independent Tree Surveys Ltd respectively.

7.0 Assessment

7.1. I am satisfied that the main issues for consideration in this case include:

- Principle of the Development
- Concurrent Planning Applications
- Impact on Ecology / Wildlife
- Appropriate Assessment

7.2. Each of these issues is addressed in turn below.

7.3. Principle of the Development

7.3.1. The applicant's agent has identified that the proposed development is required to reflect revised land ownership arrangements on the Milltown Park site. The building to which the demolition works relate and the adjoining structures are not Protected Structures. An Architectural Heritage Opinion on the proposed development as prepared by Molloy & Associates Conservation Architects accompanies the planning application and concludes that the link building does not possess particular architectural interest and that its removal will not adversely impact on the retained buildings. It is also concluded that the proposed separation of a former historic demesne, by the construction of a new 2.4 m high boundary wall, does not represent an impact in light of the extensive development of the site since the late 19th century, removing reference to its 18th century origins.

7.3.2. I note that the Planning Authority has deemed the proposed development to be acceptable and that detailed information, including a photographic record, has been provided on the building which will be subject to demolition works, as required under the development plan. Based on the foregoing, I am satisfied that the principle of the development is acceptable on the subject site.

7.4. Concurrent Planning Applications

7.4.1. The appellants submit that the current application and the concurrent SHD application on the Milltown Park site (ABP Ref. 311302-21) should not have been considered in isolation. In response, the applicant's agent submits that there is no reason that the current application and the SHD application cannot be considered in

tandem and confirms that both applications are capable of being implemented independently.

7.4.2. In reviewing the relevant planning history for this case, I note that An Bord Pleanála granted planning permission for a SHD application on lands which generally comprise the north-eastern portion of the Milltown Park site on 23rd December 2021. This application also provides for the demolition of a section of the red link building as located within the SHD planning application boundary.

7.4.3. The current application includes lands within the ownership of both the applicant and the Jesuit community. A letter of consent from a representative of the Jesuit community accompanies the application. In my opinion, I can see no procedural reason why the development which is currently proposed and the SHD application could not be lodged as individual planning applications. Should the Board grant planning permission for the current appeal case, I note that the manner in which these permissions are implemented is a matter for the developer.

7.5. Impact on Ecology / Wildlife

7.5.1. The appellants have raised concerns regarding the potential impact of the proposed development on ecology / wildlife including, impacts on the trees along the western site boundary and the impact of the proposed boundary wall on existing ecological corridors. It is also submitted that the building which it is proposed to demolish could be suitable for roosting bats. It is also noted that an ecological impact assessment was not submitted with the planning application.

7.5.2. In response to the foregoing, the applicant's agent confirms that the proposed development will involve the removal of 1 no. early mature lime tree along the western site boundary, which will have no impact on the integrity of the tree line along this boundary or its function as an ecological corridor. It is submitted that the building which is proposed to be demolished is flat-roofed with no suitable roof space for roosting bats, and as such, has low bat roost potential. It is also submitted that the external brickwork of the building is smooth, with no cavities suitable for bat entry, with the windows being intact and allowing no entry points to the interior. It is noted that badger do not appear to be making use of the site and that the proposed planting of native trees and shrubs on foot of the SHD planning application will benefit mammals, providing additional cover and foraging resources. It is also noted

that mitigation measures have been comprehensively considered as part of the SHD planning application.

- 7.5.3. In considering the foregoing and having regard to the nature and scale of the proposed development, the recent planning permission for a SHD development on the north-eastern portion of the Milltown Park site and the applicant's response to the request for Further Information concerning the impact on existing site trees, I am satisfied that the proposed development would have no unacceptable impact on ecology which would warrant the refusal of planning permission in this instance.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

8.0 **Recommendation**

- 8.1. I recommend that planning permission be granted for the proposed development.

9.0 **Reasons and Considerations**

- 9.1. Having regard to the nature and scale of the proposed development, it is considered that, subject to the conditions set out below, the proposed development would be acceptable in design, form and scale and not seriously injure the residential or visual amenities of the area or of property in the vicinity. The 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 submitted on the 13th day of August 2021, 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>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 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>

Louise Treacy
Senior Planning Inspector

13th September 2022