



An
Bord
Pleanála

Inspector's Report

ABP-313074-22

| | |
|-------------------------------------|---|
| Development | Demolition of house and garage and the construction of dwelling and garage and all associated site works. |
| Location | The Hermitage 22, Strand Road, Dublin 4 |
| Planning Authority | Dublin City Council South |
| Planning Authority Reg. Ref. | 4166/21 |
| Applicant(s) | Brendan Grehan |
| Type of Application | Permission |
| Planning Authority Decision | Refuse |
| Type of Appeal | First Party |
| Appellant(s) | Brendan Grehan |
| Observer(s) | None |
| Date of Site Inspection | 25 August 2022 |
| Inspector | Gillian Kane |

1.0 Site Location and Description

- 1.1.1. The subject site is located on the eastern side of Strand Road, at the junction of Strand Road and Merrion Road. The site is the last (southern) dwelling on Strand Road.
- 1.1.2. The site currently comprises a two-storey semi-detached dwelling with separate single storey garage, all bound to the east and south by Sandymount strand. The dwelling is bound to Strand Road (western elevation) by an approx. 1.8m high wall, pedestrian gate and double garage door.
- 1.1.3. To the south of the subject site is an access slipway to Merrion Strand, which incorporates flood defence walls. The Dart line crosses Strand Road via the Merrion Gates to the immediate west of the site.

2.0 Proposed Development

- 2.1.1. On the 22nd December 2021 planning permission was sought for the demolition of an existing two-storey house of 108sq.m. and the construction of a three storey semi-detached dwelling of 272sq.m. and a single storey garage of 34.5sq.m.
- 2.1.2. Details provided in the application form include:
 - Total site area 296sq.m.
 - Proposed new development: 272sq.m.
 - Development to be demolished: 130.7sq.m.
 - Proposed plot ratio: 0.6 and site coverage: 60%

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 22nd December 2021, the Planning Authority issued a notification of their intention to REFUSE permission for the following two reasons:
 - 1 The proposed development is located on a site designated as Flood Zone A and B. Having assessed the flood risk, it is considered that the proposed development is contrary to the requirements of the DEHLG/OPW Guidelines on the Planning Process and Flood Risk 2009. The proposal for a larger residential unit, with increased site coverage and bedspaces would be considered a highly vulnerable use introducing additional residents to flood

zones which is not consistent with the Guidelines and is contrary to Policy SI10 of the Dublin City Development Plan 2106-22. The proposed development is therefore contrary to the proper planning and sustainable development of the area

- 2 The proposed development by way of its overall design, height and increased scale would have a seriously negative impact on the residential amenity and architectural quality of a residential conservation area and would therefore be contrary the Dublin City Development Plan 2106-22 Z2 zoning objective. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. **Drainage Division:** Objects to the proposed development on the grounds of flood risk. Site is within tidal flood zones A/B and the development of residential buildings below the relevant estimated flood levels is not permitted. Proposed substantial re-development of this site with increased site coverage is contrary to Flood Risk Guidelines. Recommends permission be refused.
- 3.2.2. **Planning Report:** Demolition of existing dwelling and its replacement with a dwelling that contributes to the streetscape is acceptable. Due to height and building lines, proposed development does not have due regard to existing character of the street. Notes the refusal recommended by the Engineering Services department and the comments of the Transportation Department. Recommends refusal for two reasons.

3.3. Prescribed Bodies

- 3.3.1. None on file.

3.4. Third Party Observations

- 3.4.1. **Iarnród Éireann:** proximity of the site to the railway must be taken into account by the developer. New house is expected to generate bigger demand for parking. Off-street parking on the ramp to the beach or traffic reversing on to Strand Road would cause a hazard for the level crossing. Two on-site spaces required with a hammerhead or equivalent for turning. Noise assessment for site must take account of 24-hr railway. Dart+ Coastal South Project is likely to result in permanent closure

of Merrion Gates level crossing, creation of a cul-de-sac at Strand Road and prohibition of on-street parking.

4.0 Planning History

4.1.1. None on the subject site.

5.0 Policy Context

5.1. Planning System and Flood Risk Management Guidelines for Planning Authorities (DOEH&LG 2009)

5.1.1. The guidelines require the planning system at national, regional and local levels to:

- Avoid development in areas at risk of flooding, particularly floodplains, unless there are proven wider sustainability grounds that justify appropriate development and where the flood risk can be reduced or managed to an acceptable level without increasing flood risk elsewhere;
- Adopt a sequential approach to flood risk management when assessing the location for new development based on avoidance, reduction and mitigation of flood risk; and
- Incorporate flood risk assessment into the process of making decisions on planning applications and planning appeals.

5.1.2. The guidelines require that Planning authorities ensure that development is not permitted in areas of flood risk, particularly floodplains, except where there are no suitable alternative sites available in areas at lower risk that are consistent with the objectives of proper planning and sustainable development. The guidelines state that where such development has to take place, in the case of urban regeneration for example, the type of development has to be carefully considered and the risks should be mitigated and managed through location, layout and design of the development to reduce flood risk to an acceptable level.

5.1.3. A key message of the Guidelines is that a precautionary approach should be applied with a risk based sequential approach to managing flood risk: avoid, substitute, justify, mitigate, proceed.

5.1.4. Chapter 2 of the Guidelines categorises flood zones as follows:

- Flood **Zone A** – where the probability of flooding from rivers and the sea is highest (greater than 1% or 1 in 100 for river flooding or 0.5% or 1 in 200 for coastal flooding);
- Flood **Zone B** – where the probability of flooding from rivers and the sea is moderate (between 0.1% or 1 in 1000 and 1% or 1 in 100 for river flooding and between 0.1% or 1 in 1000 year and 0.5% or 1 in 200 for coastal flooding); and
- Flood **Zone C** – where the probability of flooding from rivers and the sea is low (less than 0.1% or 1 in 1000 for both river and coastal flooding). Flood Zone C covers all areas of the plan which are not in zones A or B.

5.1.5. Table 3.1 classifies a range of land uses into categories of ‘highly vulnerable’, ‘less vulnerable’, and ‘water compatible’. Dwelling houses are considered highly vulnerable and retail uses are categorised as less vulnerable development.

5.2. Dublin City Development Plan 2016-2022

5.2.1. In the Dublin City Development Plan 2016 -2022 plan, the site is zoned ‘**Z1 Residential Conservation**’ which has the stated objective “to protect and improve the amenities of residential conservation areas”. Within Z1 zones ‘Residential’ is a permissible use.

5.2.2. **Chapter 16** includes the Development Management Standards and has regard to Design, Layout, Mix of Uses and Sustainable Design. **Table 16.1** provides the Maximum Car Parking Standards for Various Land-Uses and **Table 16.2** the Cycle Parking Standards. Applicable to the proposed development are the following:

- Indicative plot ratio for Z1 zones is 0.5 to 2.0,
- Indicative site coverage for the Z1 zone is 45-60%

5.2.3. **Appendix 11** of the County Development Plan refers to Flood Defence Infrastructure. **Section 11.4** refers to Sandymount, as follows:

“All existing coastal defences, rock armour, sandbanks, embankments, promenades and sea walls provide significant flood protection to roads, property and buildings behind them, by keeping out the tide and breaking up waves which might otherwise overtop them.

- 1 Booterstown marsh to Merrion Gates: Existing sea wall and embankment protects railway line.
- 2 Merrion Gates: New flood wall and flood gate protects railway line and local houses to 200-year event
- 3 Merrion Gates to Promenade: Existing garden walls and sea wall protect houses and roadway from flooding to 200-year event.
- 4 Promenade: Rock armour, promenade and old sea wall reduce flooding risk. 17 openings need flood protection to cater for 200-year event plus wave action.
- 5 Promenade to Sean Moore Park: Existing sea wall provides significant flood alleviation. Needs to be raised and strengthened or new promenade plus lesser rising of wall to protect up to 200- year flood event plus wave over topping.
- 6 Sean O'Moore Park: Southern end is flood plain for tidal overtopping. New steps and wheel chair access provide significant flood alleviation to Marine Drive.

5.3. **Natural Heritage Designations**

- 5.3.1. The South Dublin Bay SAC (Code 000210) with conservation objectives relating to tidal, mudflats and sandflats and the South Dublin SPA (Codes 04024) relating to intertidal habitat are located to the immediate east of the subject site.

5.4. **EIA Screening**

- 5.4.1. In regard to the nature and scale of the development in an urban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental 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. An agent for the applicant has appealed the decision of the Planning Authority to refuse permission. The grounds of the appeal can be summarised as follows:

Reason no. 1

- The existing house provides substandard accommodation, does not meet building regulation standards and fails to contribute to the streetscape.

- The proposed development is for a replacement dwelling on lands zoned for residential development.
- The 1 in 1000 year extreme water level in the area is 3.22mOD. This is 100mm below the FFL of the proposed dwelling.
- The 3.22mOD level is from the 2018 Irish Coastal Wave and Water Level Modelling Study (ICWWS). It is the estimated extreme 0.1% Annual Exceedance Probability (AEP) water level at the North East Point NE3, less than 1km from the subject site.
- The applicable flood zone for flood risk assessment is Flood Zone C, indicating a low probability of flooding from fluvial or tidal sources. Dwelling houses are classified as highly vulnerable development in the SFRA, they are appropriate in Flood Zone C.
- Proposed flood resilient measures proposed are:
 - external door openings with 900mm high demountable flood barriers, stored on site,
 - non-return valves in the foul and surface water discharge chambers, to prevent flooding from public water sewer surges,
 - watertight construction up to 900mm above FFL on external walls,
 - all electrical cabling will be minimum 900mm above FFL,
 - reinforced concrete slab at ground floor
 - existing sea-facing boundary wall will be replaced with a pre-cast concrete recurve wall coping, will absorb wave energy and reduce wave over topping in extreme storm events. Top of the sea wall will remain at 4.78mOD.
 - These measures cater for both the mid-range (3.22mOD +0.5m) and high-end (3.22mOD+1m) future scenario.
- The proposed development is small-scale infill development and therefore must comply with section 4.4 of the 2022 County Development Plan SFRA.
- The proposed development will not increase flood risk as it does not: introduce significant numbers of additional people into the flood plain, put additional

pressure on emergency services or emergency management infrastructure or have adverse impacts on access to a watercourse, floodplain, or flood protection measures.

- Appendix 3 of the SFRA refers to the following development options in the Sandymount area: small scale infill residential development, extensions to existing buildings, some infill commercial development.
- Section 5.28 of the Flood Risk Guidelines exempts “minor works” from the justification test. Minor works are defined as “extensions, renovations, rebuilding of existing development, small scale infill and changes of use”. Despite the sequential test and justification tests not applying, the development must not increase flood risks.
- The technical appendices to the flood risk guidelines acknowledge that the general approach to flood protection is to raise the ground floor level. This creates a hostile streetscape for pedestrians in already developed areas and infill sites. In key sites ground floor levels below predicted high tides can be allowed in limited circumstances for commercial and business developments.
- The proposed development is appropriate as it is in Flood Zone C, has flood resilient measures, is a minor and small scale infill development.

Reason no. 2

- The proposed contemporary design takes advantage of the location. It would make a positive contribution to the residential conservation area, being an improvement on the existing house.
- The proposed dwelling would book-end Strand Road, marking the transition to Merrion Gates. The proposed development does not detract from the architectural character of the area.
- The proposed dwelling references the Martello Tower to the north and the Scott art deco house in Sandycove. It utilises a simple palette of materials, referencing marine architecture.
- There are three storey buildings on both sides of Strand Road: no. 199 Strand Road, a three storey Georgian house and no.s 20 and 2 Strand Road with developed roof spaces.

- The applicants drawing 'Street Elevation' illustrates the variety of heights and architectural styles present. The proposed development does not detract from the architectural conservation area or the streetscape, both of which can absorb a contemporary dwelling.
- The appellant rejects the assertion that the increased scale of the proposed dwelling would have a seriously negative impact on the residential amenity and architectural quality of the residential conservation area. There are no third-party objections to the proposed development.
- The ground floor level of the proposed dwelling will be in-line with the neighbouring ground floor extension. At first and second floor level, the building line is in-line with the adjoining building. Submitted drawings contained an error. Amended drawings submitted to the Board.
- The Board is requested to grant permission.

6.1.2. The appeal is accompanied by a Consulting Engineering Report. The report can be summarised as follows:

- 40% of the site is in Flood Zone A/B, 60% is in Flood Zone C. This 60% excludes the existing house as the FFL of 3.32mOD, i.e. above the 1 in 1000 year extreme water level in the area.
- The FFL of the proposed dwelling is above the 1 in 1000 year extreme water level.
- The Engineering services report submitted with the application states that the site is in Flood Zone C. Therefore the site has a low probability of flooding from fluvial or tidal sources.
- Section 4.3 of the development plan refers to development in Flood Zone C stating that development will be at risk when 0.5m is added to the extreme (1 in 200 year) tide. Proposed flood resilient measures cater for both the mid-range and high-end future scenarios.
- The proposed development is a minor-infill development which is allowed, as per appendix 3 of the SFRA.

6.2. **Planning Authority Response**

- 6.2.1. A requests that if permission is granted a section 48 development contribution condition be attached.

6.3. **Observations**

- 6.3.1. None on file.

7.0 **Assessment**

- 7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development including the various submissions from the applicant, the planning authority and the Observer. I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Flood Protection
- Scale of development

7.2. **Principle of Development**

- 7.2.1. The subject site is located in an area zoned for residential development and on a site which comprises a two-storey dwelling. A demolition report is submitted with the application. It details the condition of the existing dwelling and single storey garage and finds that the dwelling is in poor condition, with many instances of non-compliance with building and health and safety regulations. I consider the findings of the report to be reasonable and I concur with the conclusion that the demolition of the proposed dwelling and garage are acceptable.
- 7.2.2. Subject to compliance with all other planning considerations, the proposed development is acceptable in principle.

7.3. **Scale of Development**

- 7.3.1. The proposed dwelling at 272sq.m. is greater than double the existing 108sq.m. two-storey semi-detached dwelling. At an overall height of 9.25m, it is significantly taller than the adjoining 7.39m dwelling. Being the final site on Strand Road however, there is a degree of flexibility in re-developing the site. There is less need to reflect

the prevailing height, building line or architectural style along the road. The proposed dwelling being of greater height and scale appropriately 'ends' the development of Strand Road, creating a marker before the transition to Merrion Gates / the strand.

- 7.3.2. The existing dwelling and its semi-detached neighbour are largely screened from Strand Road by tall front boundary walls. The proposed development continues that streetscape with the effect that there is no change at streetscape level. At the upper floors, the proposed development is set back at the south and western elevations with large glazed sections and terraces. This aids visibility to the strand beyond and reduces the scale and bulk of the proposed dwelling.
- 7.3.3. It is considered that the proposed dwelling is acceptable in terms of scale and height, creating a development that will be readily absorbed into this section of Strand Road.

7.4. Flood Protection

- 7.4.1. The Planning Authority first reason for refusal states that as the subject site is located in Flood Zone A and B, is for a large residential unit with increased site coverage, the proposed development would be for a highly vulnerable use and therefore is not consistent with the Guidelines or the development plan.
- 7.4.2. The appellant refutes the reason for refusal, stating that the site is in Flood Zone C, is a small-scale infill-development and is at low probability of flood risk.
- 7.4.3. The Dublin City Council SFRA is contained in Volume 7 of the County Development Plan. The Sandymount area that includes the subject site is referred to as Site 8 in the SFRA and is described as being land that has been reclaimed from the sea in the last 200 years. The area is stated to be at extreme sensitivity to climate change, notwithstanding the flood relief scheme works. The residual risks associated with over topping are also high, due to gaps in the defences. Flooding from wave overtopping is a significant risk in this area. In terms of development options, the appendix states that "residential development, either small scale infill or extensions to existing buildings, with some infill commercial development would be a natural extension of existing development". The SFRA shows the subject site as being within Flood Zone A/B. If the applicant disagrees with that designation, a Site-Specific Flood Risk Assessment (SSFRA) should have been carried out, in accordance with Objective IS08 of the plan.

- 7.4.4. Regarding whether the proposed development can be considered to be small-scale or infill development, section 5.28 of the Guidelines refer to minor development as being “small extensions to houses”. In that vein, I note the Justification Test for the Sandymount area (appendix 3 of the SFRA) which lists the development options as “small-scale infill or extensions to existing buildings”. Under these classifications, the proposed development which seeks to demolish an existing dwelling of 108sq.m. and construct a new three storey dwelling of 272sq.m. cannot be considered to be a minor development. While objective SI09 of the development plan defines ‘minor development as including “the rebuilding of houses”, given that the proposed development doubles the size of the existing house, significantly increases bed spaces and site coverage, in my opinion, it cannot be considered to be a re-build. While it is a replacement dwelling, the proposed dwelling is considerably greater in scale and use than the existing dwelling. I do not accept that the proposed development is a minor or small-scale development.
- 7.4.5. The appellant states that the 1 in 1000 year water level (0.1%AEP) at Point NE23 is 3.22mOD according to the Irish Coastal Wave and Water Level Modelling Study (ICWWS) 2018. The corresponding map or extract from the study was not submitted with the appeal and I was not able to find a document or map that corresponded to that data.
- 7.4.6. Information that is freely available, is the mapping data from Sept 2012 for the Irish Coastal Protection Strategy Study (ICPSS). For the north-east coast (Omeath to Dalkey Island), this data shows node 23 at 3.75mOD for the mid-range future scenario and 4.25mOD for the high-end future scenario. The 2020 published ICWWS builds on this 2012 / 2013 data with two future extreme water level datasets – high end plus (HE+) and high end plus plus (HE++).
- 7.4.7. Appendix L of the ICWWS 2018 Phase 1 report¹ shows the extreme water level for NE 23 at 3.25mOD for the 0.1AEP. The ICWWS 2018 Present Day Scenario - North East Coast Estimated Extreme Water Levels, in appendix M show 3.00m for 0.1% AEP. For the mid-range future scenario, Appendix N shows a level of 3.5mOD, rising to 4.00mOD, 4.5mOD and 5mOD for the high-end, high-end plus (appendix P) and high end plus plus (appendix Q) future scenarios 0.1%AEP.

¹ [ICWWS2018_Phase1_Appendices_F02.pdf](#)

- 7.4.8. The FFL of the existing house is 3.32mOD. A single past flood event in the area according to the OPW, was recorded on the 4-7 November 2000. The Rock Road at the Merrion Gates was closed for 4-5 hours. It is not known if the existing dwelling was affected.
- 7.4.9. Noting the above, it is not clear to me where the appellants figure of 3.22mOD derives from. Therefore the applicants claim that the subject site is located in Flood Zone C cannot be verified. Given this lack of clarity and having regard to Objective IS08 of the plan (which requires a site specific FRA), it is considered that should the principle of a replacement dwelling on the subject site be acceptable to the Board, the applicant should be afforded the opportunity to prepare a SSFRA. Without such data and having regard to the precautionary principle, it is considered that permission should be refused.

8.0 Recommendation

- 8.1.1. I recommend permission be REFUSED for the following reason:
- 1 The proposed development is in an area which is deemed to be at risk of flooding, by reference to the current Dublin City Council Development Plan 2016-2022. Having regard to the provisions of the Development Plan in relation to development proposals in areas at risk of flooding, it is considered that, in the absence of adequate information relating to the risk of flooding, analysis of such risk, and appropriate mitigating measures to address any risk. The proposed development would be contrary to the proper planning and sustainable development of the area.

Gillian Kane
Senior Planning Inspector

13 October 2022