



An  
Bord  
Pleanála

## Inspector's Report ABP-314538-22

### Development

Demolition of existing established single storey residential unit and the construction of 2 storey dwelling with amended landscaping and associated site works.

### Location

Rear 58 St. Alphonsus Road (with frontage onto St. Brigid's Road),  
Drumcondra, Dublin 9

### Planning Authority

Dublin City Council

### Planning Authority Reg. Ref.

4208/22

### Applicant(s)

Phelim Davey

### Type of Application

Permission

### Planning Authority Decision

Refuse

### Type of Appeal

First Party

### Appellant(s)

Phelim Davey

### Observer(s)

Alan and Jennifer Rath  
Iona and District Residents'  
Association

**Date of Site Inspection**

26/01/2023

**Inspector**

Lorraine Dockery

## **1.0 Site Location and Description**

- 1.1. The subject site is located along St. Brigid's Road Upper, to the rear of No. 58 St. Alphonsus Road Upper, Drumcondra, Dublin 9. The site, which is in a well-established residential area, previously formed part of the rear garden of No. 58 St. Alphonsus Road and has a stated area of 103 m<sup>2</sup>.
- 1.2. There is currently a detached, single storey structure on site.

## **2.0 Proposed Development**

- 2.1 Permission is sought for the demolition of existing established single storey residential unit and the construction of a two-storey dwelling with amended landscaping and associated site works.
- 2.2 The proposed floor area is stated as being 81m<sup>2</sup>

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission REFUSED for one reason, as follows:

1. The proposed development would, by reason of its design, scale and location, constitute an incongruous form of development within the context of the surrounding streets, which would be out of character with the pattern of development in the area and seriously injure the visual amenities of the area and of property in the vicinity. The proposed house is in contravention of the standards set out in the Dublin City Development Plan 2016-22, and in the Quality Housing for Sustainable Communities Ministerial Guidelines. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The main points of the planner's report include:

- The requirement to avoid overlooking, overbearing or breach of the building line has resulted in a design of limited residential amenity, which does not meet the required Ministerial standards or Development Plan standards, and which nonetheless would present a two-storey elevation within close proximity of the gardens of 58 and 60 St Alphonsus Road, and an incongruous design out of character with the streetscape.
- Refusal of permission recommended

### 3.2.2 Other Technical Reports

Drainage Division- No objections, subject to conditions

## 3.3 Prescribed Bodies

Irish Water

Condition recommended

## 4.0 Planning History

There is a long and protracted planning history on this site dating back to 2005 and I refer the Board to the relevant section of the planning authority Planner's Report for details of same. The most recent relevant history on the site is as follows:

2606/18 (ABP-301878-18)

Permission REFUSED for the demolition of existing established single storey residential unit & the construction of 2 storey dwelling with amended landscaping & new garden railings and associated site works.

The reason for refusal was as follows:

Having regard to the prominent location of the site within the streetscape and the

breaking of the established building line of Saint Brigid's Road Upper at first floor level, it is considered that the proposed dwelling, by reason of its position on site, design and scale, would be visually obtrusive, would constitute an incongruous form of development on the streetscape and would, therefore, seriously injure the amenities of the area and of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

I also highlight that there is a protracted enforcement history relating to this site, with the most recent relevant file as follows:

EO022/22

Alleged use of structure for habitable purposes- live file

## **5.0 Policy and Context**

### **5.1 Development Plan**

The Dublin City Development Plan 2022-2028 is the operative Development Plan for the area.

Zoning- 'Objective Z1' which seeks 'to protect, provide and improve residential amenities'.

15.5.2 Infill Development

15.13.3 Infill/Side Garden Housing Developments

15.13.4 Backland Housing

### **5.2 Natural Heritage Designations**

The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

### **5.3 EIA Screening**

Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and

outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest sensitive location, 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**

An appeal was received on behalf of the first party, which may be broadly summarised as follows:

- Two bedroom/three person house of 81m<sup>2</sup> with private open space to side of 32m<sup>2</sup>
- Proposal complies with relevant national guidelines including Quality Housing for Sustainable Communities (2007) and Design Manual for Quality Housing (2022)
- Existing vehicle entrance shall be removed and space will not be compromised by car parking space
- Explanation of proposed materials provided; proposal compatible and harmonious with existing streetscape; will contribute to diversity of housing stock in area

### **6.2 Planning Authority Response**

Request An Bord Pleanála uphold their decision and that if permission is granted, a condition requiring the payment of a section 48 development contribution be applied.

### 6.3 Observations

Two observations were received which may be broadly summarised as follows:

- Notes planning history
- Out of character with streetscape and seriously injurious to visual amenities; would undermine integrity of Residential Conservation Area
- Reiteration of reason for refusal
- Setting of precedent
- Substandard form of development; unacceptable external finishes and design
- Other Matters: Enforcement concerns; boundary concerns- building line appears to encroach onto laneway; insufficient/inconsistent documentation

### 6.4 Further Responses

None

## 7.0 Assessment

7.1 I have read all the documentation attached to this file including inter alia, the appeal submission and the report of the Planning Authority, the observations received and planning authority response received, in addition to having visited the site.

7.2 The primary planning issues, as I consider them, are (i) planning history and policy context and (ii) impact on the visual and residential amenity of the area arising from the proposed works. I note that amended drawings have been submitted with the appeal submission and I am including these additional/amended drawings in my assessment.

7.3 I highlight to the Board that a new City Development Plan has been adopted, since the decision of the planning authority issued.

#### Planning History and Policy Context

7.4 I highlight to the Board that a number of applications for a dwelling on this site were previously refused permission by the planning authority and An Bord Pleanála on appeal (see planning history above).

- 7.5 The zoning of the site is 'Objective Z1' which seeks 'to protect, provide and improve residential amenities'. Residential development is acceptable in principle under this zoning objective. I consider the principle of the proposed development to be in accordance with the zoning objective for the site. One of the observations received incorrectly states that the site is located within a Residential Conservation Area, although I do note a Residential Conservation Areas immediately to the west of the subject site and that other streets in the locale are designated as such.
- 7.6 Section 15.13.3 'Infill/Side Garden Housing Developments' and section 15.13.4 'Backland Development' of the operative City Development Plan sets a generally favourable policy towards development on such sites, subject to compliance with normal planning criteria. I consider the proposal to be substantially in compliance with this section of the operative City Development Plan. In terms of national policy, I note the policies and objectives within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 which fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas.

#### Visual Amenity

- 7.7 The most recent refusal of permission for a dwelling on this site was ABP- 301878-18, with the reason for refusal stating that having regard to the prominent location of the site within the streetscape and the breaking of the established building line of Saint Brigid's Road Upper at first floor level, it is considered that the proposed dwelling, by reason of its position on site, design and scale, would be visually obtrusive, would constitute an incongruous form of development on the streetscape and would, therefore, seriously injure the amenities of the area and of property in the vicinity. The proposed development was, therefore, considered to be contrary to the proper planning and sustainable development of the area.
- 7.8 In order to address this reason for refusal, the appellants have now set back the first floor level insofar as it is generally in line with the existing buildings on St. Brigid's Road Upper and have reduced its overall size and scale at first floor level. The overall footprint on site has also been marginally reduced and alterations have also



been made to the internal layout. Having regard to these alterations, I consider that the revised proposal before me has substantially overcome this reason for refusal.

- 7.9 The reason for refusal which issued from the planning authority stated that the proposed development would, by reason of its design, scale and location, constitute an incongruous form of development within the context of the surrounding streets, which would be out of character with the pattern of development in the area and seriously injure the visual amenities of the area and of property in the vicinity. The proposed house was considered to be in contravention of the standards set out in the Dublin City Development Plan 2016-22, and in the Quality Housing for Sustainable Communities Ministerial Guidelines.
- 7.10 As stated above, the first party appellant has submitted revised drawings with the appeal submissions which seeks to address the issues raised in this reason for refusal. It is these revised drawings on which I am basing my assessment. I again acknowledge that a new City Development Plan has been adopted since the decision of the planning authority issued. The appellant states in the submitted documentation that this is a 2 bedroom/3 person dwelling. While I note that the drawings show capacity for two persons in the 1 person bedroom, I do not consider it unreasonable to suggest that one person would occupy a double bed. Having regard to this, I consider that the proposed development meets the internal standards for a 2bed/3person unit set out in the operative City Development Plan and the referenced document 'Quality Housing for Sustainable Communities, Best Practice Guidelines for Delivering Homes , Sustaining Communities (2007).
- 7.11 I do not have issue with a contemporary style dwelling at this location and consider this preferable to a pastiche design, providing that the elevational treatment, detailing and finishes are of a high quality. There are many examples throughout the city where contemporary style dwellings have been successfully inserted in sensitive streetscapes. Some may consider the contemporary style of the proposal to be out of character with existing development in the vicinity, however I consider that the proposal has the potential to add to its character, as the street evolves and changes over time. It is evident that there are variations to the front elevations of properties along St. Brigid's Road Upper that do not cause detriment to the amenities of the area or the character of the street. I acknowledge what the appellant is trying to achieve by providing a different material, zinc finish at first floor level. However, in

this instance, I query its appropriateness and consider that a brick finish of differing colour to that at ground floor level would be more suitable, given the locational context of the site. I consider that this matter could be adequately dealt with by means of condition, if the Board is disposed towards a grant of permission.

- 7.12 Local and national policy generally encourages the appropriate development of appropriate underutilised sites in serviced built-up areas. In this instance, I note the underutilised, residual nature of the subject site, located within a well serviced inner suburban area. I also note the fact that when viewed from St. Brigid's Road (travelling from St. Patrick's Parade), the subject site adds little to the streetscape of the area. I fully acknowledge that any development on this site will be visible in its setting. However, given the relatively low rise nature of the proposed development, I do not consider the proposal to be excessively dominant, overbearing or obtrusive in its context and I consider that the subject site has capacity to accommodate a development of the nature and scale proposed, without detriment to the amenities of the area. The building line is being maintained at first floor level and I consider that the proposal does not represent over-development of the site. Impacts on the streetscape would not be so great as to warrant a refusal of permission. I am satisfied that the proposed development can aid in the densification of this area and can provide a property type that is currently not well catered for in this location. I consider the proposal to be in accordance with the operative City Development Plan and national policy guidance in terms of densification of well serviced urban areas and the appropriate development of infill sites.

#### Residential Amenity

- 7.13 In terms of impacts on residential amenity, I am cognisant of the relationship of the proposed development to neighbouring properties. I note the relatively low rise nature of this dwelling and the separation distances proposed. Having examined the proposal, I am of the opinion, separation distances typical of what would normally be anticipated within such an established, urban area are proposed with existing properties. This will ensure that any impacts are in line with what might be expected in an area such as this. Given the height and design of the proposed dwelling, I am of the opinion that it would not unduly overbear, overlook or overshadow adjoining properties, and would not seriously injure the amenities of property in the vicinity of the site.

7.14 Good quality private open space is proposed to comply with Development Plan standards. A privacy strip to front is proposed. If the Board is disposed towards a grant of permission, I recommend that condition be attached to any such grant stipulating that the existing vehicular entrance onto St. Brigid's Road Upper be permanently omitted from the site and the boundary wall reinstated, so as to ensure that the proposed private open space is not impinged upon by an in-curtilage parking space. The subject dwelling should not be occupied until such time as this has been undertaken. Exact details relating to proposed boundary treatments should also be submitted to the planning authority for their written agreement.

7.15 I note the concerns expressed by the planning authority in terms of levels of daylight/sunlight into the proposed bedrooms, given their northern orientation. I am not unduly concerned in this regard, given the size of windows proposed and their outlook onto a private open space. A second window on the front elevation is also proposed to Bedroom No. 2. However, I consider that if the Board were disposed towards a grant of permission, an additional window at ground (to hallway or stairs) and first floor level (to kitchen area) to allow for additional light could be provided. This would aid in increasing light into the proposed dwelling and providing passive surveillance of the laneway and would have no increased issue of overlooking of the adjoining property to the south, given that they have no windows in the gable elevation and these windows would not overlook their private open space to rear. This matter could be adequately dealt with by means of condition.

#### Other Matters

7.16 The appeal submissions raise concerns with the proposal oversailing the boundary line onto the adjoining laneway. The drawings before me appear to show the proposal contained entirely within the red line boundary. In any event, matters relating to boundaries and legal ownership are considered to be a legal matters outside the remit of this planning appeal. I can only undertake my assessment based on the information before me. I am satisfied, based on this information, that the applicant has demonstrated sufficient legal interest to make this application. As in all such cases, the caveat provided for in Section 34(13) of the Planning and Development Act 2000, as amended, applies which stipulates that a person shall not be entitled solely by reason of a planning permission to carry out any development. I

also note the provisions of Section 5.13 of the Guidelines for Planning Authorities, Development Management, 2007 in this regard.

7.17 Issues of enforcement are a matter for the planning authority, outside the remit of this planning appeal.

7.18 I am satisfied that there is adequate information on file for me to undertake a comprehensive assessment of the proposed development. In addition, I have carried out a visit of the site and its environs.

### Conclusion

7.19 The subject site is zoned 'Objective Z1' in the operative City Development Plan with 'residential' being a permissible use. I consider the proposal to be in compliance with the zoning objective for the site and relevant sections of the operative City Development Plan. The proposal is also consider to be in compliance with national policy with regards the densification of underutilised sites in urban areas, close to good transport links, retail and employment facilities.

7.20 Having regard to all of the above, I consider that the proposed development is in accordance with the provisions of the operative City Development Plan, is in keeping with the pattern of development in the area and is in accordance with the proper planning and sustainable development of the area.

## **8.0 Appropriate Assessment Screening**

8.1 Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## **9.0 Recommendation**

9.1 I recommend permission be GRANTED.

## 10.0 Reasons and Considerations

Having regard to the pattern of development in the area and its residential zoning under the Dublin City Development Plan 2022-2028, and to the standards for the development of corner/side gardens and backland development set out in section 15.13.3 and 15.13.4 respectively of that Plan, it is considered that, subject to compliance with conditions below, the proposed house would not seriously injure the character of the area or the amenities of property in the vicinity, would provide an adequate standard of residential amenity to future occupiers and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

## 11.0 Conditions

1.	<p>The development shall be carried out in accordance with the plans and particulars lodged with the application, except as may be amended by additional drawings received by An Bord Pleanála on the 05<sup>th</sup> day of September 2022, 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><b>Reason:</b> In the interest of clarity</p>
2.	<p>Prior to the commencement of any works on site, the applicant shall submit for the written agreement of the planning authority, revised plan, sections and elevations at an appropriate scale which shows:</p> <p>(i) the proposed zinc finish at first floor level omitted and replaced with a brick finish of differing colour to that proposed at ground floor level</p> <p>(ii) an additional window, of appropriate size, in the southern elevation at ground and first floor level to hallway/stairs and kitchen area</p>

	<p>(iii) exact details of proposed boundary treatments</p> <p><b>Reason:</b> in the interests of visual and residential amenity</p>
3.	<p>The proposed dwelling shall not be occupied until the existing vehicular entrance onto St. Brigid's Road is permanently closed and the roadside boundary reinstated</p> <p><b>Reason:</b> In the interests of residential and visual amenity</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the amenities of property in the vicinity.</p>
5.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
6.	<p>Water supply and drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health and surface water management.</p>
7.	<p>Prior to the commencement of development, the developer shall enter into a water and wastewater connection agreement with Irish Water.</p> <p><b>Reason:</b> In the interests of public health</p>
8.	<p>The developer shall comply with all requirements of the planning authority in relation to transport and traffic matters</p> <p><b>Reason:</b> In the interests of public safety</p>

9.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, machinery storage and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
10.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission</p>

Note: The applicant is advised to note section 34(13) of the Planning and Development Act, 2000 (as amended) which states that a person shall not be entitled solely by reason of a permission to carry out any development.

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Lorraine Dockery  
Senior Planning Inspector

28<sup>th</sup> February 2023