



An
Bord
Pleanála

Inspector's Report ABP315426-23

Development	Demolition of single storey commercial unit and construction of three storey residential apartment and car park to front of building.
Location	74 Ballybough Road, Dublin 3.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3815/22.
Applicant	Maureen Grant.
Type of Application	Planning application.
Planning Authority Decision	Permission.
Type of Appeal	Third Party
Appellants	Mary and David Faughnan.
Observer(s)	None.
Date of Site Inspection	10 th May 2023.
Inspector	Derek Daly.

1.0 Site Location and Description

1.1. The subject site is located at the southeast corner of the junction of Ballybough Road which defines the sites northwestern boundary and Bayview Avenue which defines the northeastern boundary in the north inner suburbs of Dublin City. The remaining boundaries adjoin existing properties. On the site which has a stated area of 73.4m² is a derelict single storied structure. The adjoining properties on Ballybough Road are two storied residential properties and the adjoining property on Bayview Avenue (29A) is a three storied single bay residential property and to the east of that property is a single storied dwelling. The predominant use in the immediate area is residential use with some retail/commercial uses on Ballybough Road. Ballybough Road is an important radial route and the site occupies a prominent location on this route.

2.0 Proposed Development

- 2.1. The proposed development as initially applied for provides for the demolition of a single storey commercial unit and the construction of a three storey residential apartment and car park to front of the building. The proposal provides for an apartment with a kitchen/dining a WC, storage and an external access bin storage onto Bayview Avenue at ground floor level at ground floor level; a living room, store, bathroom and a balcony facing onto Ballybough Road at first floor level and two bedrooms, a storage area and balcony facing onto Ballybough Road at second floor level. A pitch roof is indicated on both the Ballybough Road and Bayview Avenue elevations with brick as the external finish. The parking space is located forward of the Ballybough Road elevation. The floor area of the proposed apartment unit is stated as 101.5m².
- 2.2. Further information was submitted on the 10th November 2022 reducing the residential unit to two storied development with a single bedroom at ground level, provision of an external access bin storage with bike storage, living accommodation is on the first floor with an inset balcony and a section of flat roof on the rear elevation adjoining the property on Bayview Avenue.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to grant planning permission subject to nine conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 17th June 2022 refers to national policy and provisions of the Dublin City Development Plan 2016-2022, indicates concerns in relation to the height and design of the proposed structure, impact on the adjoining property on Bayview Avenue and the use of balconies. Further information was recommended.

The planning report dated the 1st December 2022 refers to further information and that revised two storey design is in keeping with the streetscape, that the reduction addresses concerns in relation to the adjoining property on Bayview Avenue, the parking area should be omitted and acceptable. Permission was recommended.

3.2.2. Other Technical Reports

No objection from Drainage division.

The transportation planning report dated the 2nd June 2022 indicates serious concerns in relation to the parking provision outlined and requested further information be submitted.

4.0 Planning History

No planning history.

5.0 Policy and Context

5.1. Development Plan

5.1.1. The current statutory development is the Dublin City Development Plan 2022-2028. The application when determined by the Planning Authority was the Dublin City Development Plan 2016-2022.

5.1.2. The site is located within the Z1 zoning, Sustainable Residential Communities.

Chapter 5 of the 2022 plan refers to Quality Housing and Sustainable Neighbourhoods set out overall policy and strategy for the provision of housing and sustainable neighbourhoods and that there is a necessity to provide high quality, appropriately managed, sustainable, adaptable housing units with good levels of amenity that readily provide for changing needs over time including the needs of families with children, older people and disabled persons.

Chapter 15 relates to Development Standards which sets out the standards and criteria to be considered in in the development management process.

Appendix 17 of Volume 2 Ancillary Residential Accommodation sets out a number of general principles that should be addressed in all cases and which will be applied by the planning authority in assessing applications for permission.

5.1.3. Natural Heritage Designations

None relevant

5.2. EIA Screening

The proposed development does not fall within the scope of any of the Classes of development for the purposes of EIA.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The third party appellants who reside on the adjoining property on Bayview Avenue main grounds of appeal can be summarised as follows:

- The appellants note that the permission as granted is for a two storey dwelling unit.
- The proposal will block daylight from the two western facing windows at ground and first floor level and no shadow / lighting impact assessment was submitted.
- There is also an issue of loss of privacy from a window from a window at first floor level.
- Issues are raised in relation to drainage and impact on their drainage arising from the development.
- The proposal will increase parking demand in the area.
- Issues are raised in relation to the internal arrangements of the development.
- The appellants' property is a landmark property of a historic nature and the only three storey property in the area and the relative elevation should be maintained and there are concerns raised in relation how their property can be maintained and impacts arising during the construction phase of the development.
- Flood risk issues are raised.

6.2. Applicant Response

The applicant in a response to the appeal indicates,

- In relation to elimination of daylight this was addressed by the reduction to two stories and a set back at first floor level.
- The revised proposal is acceptable in relation to daylight.
- The first floor window will be fitted with obscure glazing.
- The design will not reduce the level of privacy.
- All existing drainage arrangements will be maintained.
- The Planning Authority confirm no car parking is required.
- The adjoining structure is not listed as a protected structure.

7.0 Assessment

7.1. The main issues in this appeal are largely those raised in the grounds of appeal. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

The issues are addressed under the following headings:

- Principle of the development.
- Visual Impact and residential amenity.
- Appropriate Assessment

7.2. Principle of the development

7.2.1. The site is located within a residential area with the Z1 residential zoning and the use as proposed complies with the zoning and policies outlined in the Dublin City Development Plan 2022-2028 relating to the zoning and provision of housing generally.

7.3. Visual Impact and residential amenity

- 7.3.1. For the purposes of this assessment, I will consider the development as granted by the planning authority which was a revised proposal amending the original three storied development to a two storied development. Although the initial proposal had merit and a three storied structure could potentially have been considered on the corner site the two storied design is more appropriate given the largely prevailing nature of two storied development and integration into the streetscape.
- 7.3.2. The site currently has a derelict property and the proposal to construct a new structure will in overall terms be positive visually and will provide additional residential accommodation in a form of infill development.
- 7.3.3. The proposal as submitted complies with stated residential quality standards in relation to unit size for a one bedroomed apartment for room sizes, private amenity space, storage, refuse storage and provision of cycle parking. There was a provision for a parking space but issues in relation to the practical use of this space and ownership of the land on which the space was to be provided in effect has eliminated this space and condition 4(a) of the planning authority decision precludes parking in front of the dwelling on the footpath fronting Ballybough Road.

I have noted the concerns in relation to parking raised in the grounds of appeal but the development plan does permit relaxation of standards and given the site's proximity to the city centre and availability of public transportation options the relaxation in this instance is reasonable.

- 7.3.4. In relation to the design of the proposal the incorporation of a two storey design with a pitch roof is in keeping with the streetscape as is the external finish of brick. The recessing of the balcony area also assists in the visual integration of the proposed development with the adjoining two storied properties and streetscape.
- 7.3.5. In relation to the impact on the adjoining three storey property on Bayview Avenue it is noted that this structure is largely different to the prevailing two storey and single storey buildings in the area. Reference is made to the property as a landmark property of a historic nature and the only three storied property in the area and the relative elevation should be maintained. Although, noting the unique nature of the property it is not a listed structure and I do not consider that the proposal will detract from the visual quality of the structure or result in an adverse visual relationship between the structures.
- 7.3.6. The grounds of appeal refers to concerns raised in relation how their property can be maintained, impact on existing drainage and impacts arising during the construction phase of the development. There is currently a property on the appeal site and it is proposed to avail of existing drainage. Any matters which arise in relation to possible damage arising from the construction phase would be a civil matter.
- 7.3.7. In relation to elimination of daylight the reduction to a two storied design reduces the potential loss of daylight and the eastern elevation at first floor level is recessed along part of this elevation away from the common boundary with the provision of a flat roof above ground floor level at a lower level than the current roof line of the existing derelict property.

The window on the rear elevation of the proposed is proposed to have obscure glazing and this elevation is orientated towards the Bayview Avenue property which has a window which would look directly at this window and elevation. Given that there are two other windows at first floor level of the proposed development on the Bayview Avenue elevation and a balcony window on Ballybough Road the window

on the rear elevation over the flat roof area could I consider be eliminated without significantly impacting on natural light of the first floor living space.

This would eliminate any potential overlooking issues for both parties irrespective of the proposal to install obscure glazing. The recessing at first floor level referred to provides for daylighting.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the minor nature of the proposed development and the separation distance to any European site, it is concluded that no Appropriate Assessment issues arise as 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.

8.0 Recommendation

- 8.1. I recommend that permission be granted.

9.0 Reasons and Considerations

- 9.1. Having regard to the nature, scale and design of the proposed development and its location and relationship to existing residential development in an established residential area and the provisions of, the Dublin City and County Development Plan 2022- 2028, it is considered that the proposed development would not seriously injure the visual or residential amenities of the area or the amenities of property in the vicinity of the site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	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 to the planning authority on the 10 th of November, 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details
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	<p>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>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity</p>
3.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health</p>
4.	<p>The window at first floor level on the rear elevation shall be omitted.</p> <p>Reason: In the interest of residential amenities of surrounding properties</p>
5.	<p>No car parking shall occur to the front of the dwelling on the public footpath fronting Ballybough Road.</p> <p>Reason: In the interest of orderly development</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.</p> <p>Reason: In the interest of residential amenities of surrounding properties and in the interest of clarity.</p>
7.	<p>The applicant shall submit to agree in writing with, the planning authority the numbering of the residential unit prior to the occupation of the development.</p>

	Reason: In the interest of orderly development.
8.	<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, management measures for noise, dust and dirt and traffic management proposals</p> <p>Reason: In the interest of public safety and residential amenity</p>
9.	<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>Reason: 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>

Derek Daly
Planning Inspector

31st May 2023