



An
Bord
Pleanála

Inspector's Report

ABP-318730-23

Development	Alterations to the development previously granted under Reg. Ref. 3251/22, comprising provision of a fourth floor level setback that includes for 1. additional two-bedroom apartment located to the rear of the development, served by private balcony.
Location	61 Royal Canal Bank, Phibsborough, Dublin 7, D07 FY58
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	4173/23
Applicant(s)	Crawford Barrie Property Developments Limited
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Crawford Barrie Property Developments Limited
Observer(s)	None
Date of Site Inspection	1 st March 2024
Inspector	Donal Donnelly

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
3.3. Third Party Observations	7
4.0 Planning History.....	8
5.0 Policy Context.....	9
5.1. National Framework Plan	9
5.2. Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities 2020 (updated December 2022)	9
5.3. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)	9
5.4. Dublin City Development Plan, 2022-2028	10
5.5. Natural Heritage Designations	11
5.6. EIA Screening	11
6.0 The Appeal	11
6.1. Grounds of Appeal	11
6.2. Planning Authority Response	11
7.0 Assessment	12
7.2. Development Principle	12
7.3. Impact on Residential Amenity	13
7.4. Visual Impact.....	15
7.5. Appropriate Assessment	16

8.0 Recommendation.....	16
9.0 Reasons and Considerations.....	16

1.0 Site Location and Description

- 1.1. The appeal site is located on Royal Canal Bank in Phibsborough approximately 1.5km to the north of Dublin city centre. Royal Canal Bank extends approximately 1km from Broadstone Depot to the Royal Canal. The former canal comprises a linear park, which continues past Blessington Basin and terminates to the north at Blaquiery Bridge. The linear nature of the park is defined by a pathway, treelines and railings.
- 1.2. There is a mix of dwelling types with 2-storey terrace predominating at the northern end of Royal Canal Bank on its western side. There are 3-storey apartments in the middle section and further south there are period single and 2-storey dwellings interspersed with modern dwellings and terraces. The eastern side of the linear park comprises the rear boundaries of dwellings on Goldsmith Street and Auburn Street either side of the basin.
- 1.3. No. 61 Royal Canal Bank is currently a construction site and a permitted 4-storey apartment block is nearing completion. Windows and balconies to the front are in place and red brickwork on the façade appears to be completed. The stated area of the site is 440 sq.m.
- 1.4. The appeal site is bounded to the north by Royal Canal View Apartments (3-storeys) and to the south by a 2-storey gable fronted dwelling forming the end unit of a terrace of three forming part of St. Peter's Close, a cul de sac to the south of the appeal site. There is a cul de sac of 25 dwellings to the north of Royal Canal View Apartments.

2.0 Proposed Development

- 2.1. Planning permission is sought for alterations to the development granted under Reg. Ref. 3251/22 comprising the following:
 - Provision of a fourth floor level setback that includes for 1 no. additional 2-bedroom apartment (81 sq.m.), located to the rear of the development and served by a private balcony;
 - Provision of 3 no. additional bicycle parking spaces at ground level;

- All ancillary works necessary to facilitate the proposed development

2.2. The cumulative works will result in the provision of a 5-storey apartment block consisting of 10 no. apartments as follows:

- 2 no. studio units;
- 2 no. 1-bed units;
- 6 no. 2-bed units.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Dublin City Council issued notification of decision to refuse permission for the proposed development for the following reason:

“Having regard to the submitted Sunlight and Daylight Assessment, which demonstrates that the proposal would result in a further reduction in light to existing residential units at Royal Canal View to the north of the site to an unacceptable level, in addition to an overbearing impact when viewed from the rear of No. 1 St. Peter’s Close to the south, it is considered that the proposal would result in serious injury to the residential amenities of adjoining occupiers, and to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. The recommendation to refuse permission in the final Planner’s Report reflects the decision of the Planning Authority. The main points raised under the evaluation of the proposal in the initial Planner’s Report are as follows:

- Chapter 5 of the Development Plan: Quality Housing and Sustainable Neighbourhoods, which deals with policies and objectives for residential development, and making good neighbourhoods and standards, should be consulted to inform any proposed residential development (see also Chapter 15: Development Standards).

- Refers to Section 15.5.2 – Infill Development, Table 2 of Appendix 3 – Site Development Standards, height policy in Appendix 3, Residential Standards in Section 15.9, and Public Open Space in Section 15.8.6.
- Proposal for an additional unit would result in a density of 227 units per hectare – no objection in principle having regard to the location of the site adjacent to Phibsborough, and near to the city centre and public transport links. Plot ratio is below the indicative standard for central areas and site coverage is 60%.
- All apartments in the development meet minimum floor area standards and standards relating to internal layout and room sizes.
- Unit mix of 20% studio, 20% 1-bed and 60% 2-bed units. HNDA requires 15% of units to be 3-bed at this location; however, only one additional unit is proposed, and the requirements in relation to unit mix are generally disregarded for developments with less than ten units - in this instance the proposed unit mix is considered to be acceptable.
- It is considered from floor plans that seven of the units are dual aspect and this is considered acceptable.
- Communal open space of c. 144 sq.m (excluding bicycle and bin storage areas) is in excess of the minimum requirement (60 sq.m.) for both permitted and proposed developments. Site is adjacent to public open space at the Royal Canal Bank linear park and the Blessington Street Basin. Financial contribution in lieu of public open space should be sought in relation to the tenth unit in the event of permission being granted.
- Unclear if additional storey would be visible from Royal Canal Bank or what its impact would be. Height of proposed development, including additional storey, would be significantly above no's. 190 & 191 Phobsborough Road – photomontages required to ensure that the proposed development would not be incongruous.
- Overlooking of no's. 190 & 191 not a concern – separation distance the same as permitted in lower levels.
- Not clear if proposed development would adversely impact on sunlight and daylight to rooms and open spaces within the existing 3-storey apartment development to the north.

- 3.2.2. Other technical reports were received from the Drainage Division and Transportation Planning Division. It is recommended that a total of 21 no. bicycle parking spaces be provided. There are no other objections to the proposal.
- 3.2.3. Further information was sought from the applicant to include photomontages showing the impact of the proposed additional storey when viewed from the Royal Canal Linear Park in front of the site, and from Phibsborough Road in front/ to north and south of no's. 190 and 191. The applicant was also requested to submit a sunlight and daylight assessment showing the impact of the proposed additional storey on the residential development directly to the north of the site and its associated open space.
- 3.2.4. The main points raised in the Case Planner's subsequent assessment following submission of further information are summarised as follows:
- Photomontage from Monck Place shows that the proposal appears low rise in scale, with the proposed additional unit concealed behind 197 Phibsborough Road. Proposed development would not be visible above the roofscape on Phibsborough Road from any of the three viewpoints assessed.
 - Not considered that the blank elevation of the stairwell leading to the new fourth floor level would have a significant adverse impact. Visual impact of additional storey would be acceptable.
 - Appears that the permitted development has already reduced skylight to the three existing south-facing windows in Royal Canal View to the north of the site, in particular to rooms situated in the southern elevation of the link building between the two main blocks - concern in relation to any further reduction in light to these existing south facing windows.
 - Proposed additional storey could result in an overbearing impact when viewed from No. 1 St. Peter's Close to the south of the site.

3.3. Third Party Observations

- 3.3.1. An observation on the planning application was received from Transport Infrastructure Ireland noting that the proposed development falls within an area set out in a Section 49 Levy Scheme for Light Rail. If the planning application is

granted, and the proposed development is not exempt, a levy condition should be attached.

4.0 Planning History

Dublin City Council Reg. Ref: 3251/22

- 4.1. Permission granted for demolition of existing single storey sheds and the construction of a 4 storey apartment block consisting of 9 no. apartments as follows;
- 2 no. studio units,
 - 2 no. one bedroom units and
 - 5 no. two bedroom units.
- 4.2. The development also includes the provision of balconies to east & west elevations, shared amenity space, bin storage, 18 no. bicycle spaces at ground floor level to the rear and for all ancillary works necessary to complete the development.

Dublin City Council Reg. Ref: 5669/07

- 4.3. Permission granted for demolition of existing derelict workshop & outhouses; construction of a four storey over basement apartment block with the fourth storey set back for residents' roof garden fronting onto Royal Canal Bank with 7 no. car parking spaces at basement level, accessed from Royal Canal Bank. The proposed development shall comprise 2 no. three-bed duplex apartments at basement & ground level with east and west facing balconies & semi raised communal open space, 5 no. two-bed apartments with east and west facing balconies.
- 4.4. A refusal of extension of duration of permission was issued in June 2014 as a response to a further information request was not received.

Dublin City Council Reg. Ref: 5976/05

- 4.5. Permission granted for demolition of existing derelict workshop and out houses and the provision of a three storey block fronting onto Royal Canal Bank providing 3 no. 2 bedroom apartments at ground, first and second floor level, with balconies at front and rear and communal garden at rear, together with 5 no. car parking spaces and 3 no. bicycle spaces to the rear with access from Royal Canal Bank.

- 4.6. Permission refused for the demolition of existing derelict workshop and outhouses and the construction of 2 no. 3-storey buildings comprising of 6 no. apartments.
- 4.7. Reasons for refusal related to the location, height, massing and fenestration of the proposed rear residential block, and overlooking, overbearing and overshadowing of the adjoining properties at no. 190 and nos. 191-193 Phibsborough Road, as well as the deficiency in open space provision.

5.0 Policy Context

5.1. National Framework Plan

- 5.1.1. The NPF seeks to encourage compact growth and better use of under-utilised land and buildings, including 'infill', 'brownfield' and vacant and under-occupied sites for higher housing and job densities, better served by existing facilities and public transport. A greater proportion of future housing development is targeted to be within and close to the existing 'footprint' of built-up areas.

5.2. Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities 2020 (updated December 2022)

- 5.2.1. These Guidelines set out design parameters for apartments including locational considerations; apartment mix; internal dimensions and space; aspect; circulation; external amenity space; and car parking.

5.3. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)

- 5.3.1. These guidelines came into effect in January 2024 and replaced the Sustainable Residential Development in Urban Areas Guidelines (2009). The Guidelines support the application of densities that respond to settlement size and to different place contexts within each settlement recognising the differences between cities, large towns and smaller towns and villages.

5.4. Dublin City Development Plan, 2022-2028

- 5.4.1. The appeal site is zoned 'Z1 – Sustainable Residential Neighbourhoods' where the objective is *“to protect, provide and improve residential amenities”*.
- 5.4.2. Standards for residential accommodation as set out in Chapter 15. Under Section 15.5.2, it is stated that infill development should complement the existing streetscape, providing for a new urban design quality to the area. The Council will require infill development:
- To respect and complement the prevailing scale, mass and architectural design in the surrounding townscape.
 - To demonstrate a positive response to the existing context, including characteristic building plot widths, architectural form and the materials and detailing of existing buildings, where these contribute positively to the character and appearance of the area.
 - Within terraces or groups of buildings of unified design and significant quality, infill development will positively interpret the existing design and architectural features where these make a positive contribution to the area.
 - In areas of low quality, varied townscape, infill development will have sufficient independence of form and design to create new compositions and points of interest.
 - Ensure waste management facilities, servicing and parking are sited and designed sensitively to minimise their visual impact and avoid any adverse impacts in the surrounding neighbourhood.
- 5.4.3. Standards are also included in the Development Plan for height, density, plot ratio, site coverage and materials and finishes.
- 5.4.4. Section 15.9 includes standards for apartments in terms of units mix, unit size/ layout, dual aspect, floor to ceiling height, access, storage, private and communal amenity space, security, refuse storage, daylight and sunlight, wind and noise, separation distances, and overlooking and overbearance.

5.5. Natural Heritage Designations

- 5.5.1. The Royal Canal pNHA is approximately 500m to the north of the appeal site. The South Dublin Bay and River Tolka Estuary SPA is the closest European Site at a distance of approximately 2.8km.

5.6. EIA Screening

- 5.6.1. Having regard to the nature and scale of the proposed development, it is considered that there is no real likelihood of significant effects on the environment. 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. A first party appeal against the Council's decision has been lodged on behalf of the applicant. The grounds of appeal and main points raised in this submission are summarised as follows:
- Proposed rear extension does not negatively impact on the units to the rear as demonstrated within the Daylight and Shadow Impact Assessments.
 - Additional development does not have an overbearing impact when viewed from the rear of no. 1 St. Peter's Close to the south.
- 6.1.2. The Board is asked to consider the appeal and to grant permission for the proposed alterations, which provide for a high-quality infill residential scheme.

6.2. Planning Authority Response

- 6.2.1. In response to the first party appeal, the Planning Authority requests the Board to uphold its decision to refuse permission. If permission is granted, the Planning Authority requests that conditions be applied relating to Section 48 and 49 development contributions.

7.0 Assessment

7.1. I consider that the key issues in determining this appeal are as follows:

- Development principle;
- Impact on residential amenity;
- Visual impact;
- Appropriate Assessment.

7.2. Development Principle

- 7.2.1. Planning permission is sought for the addition of a fifth storey 2-bed penthouse apartment (81 sq.m.) to an apartment development currently under construction at Royal Canal Bank. The proposal will bring the total number of units at the appeal site to ten, comprising 2 no. studio units, 2 no. 1-bed units and 6 no. 2-bed units. Permission for 9 no. apartments over four storeys was granted by the Planning Authority in July 2022 and construction is nearing completion (Reg. Ref: 3251/22).
- 7.2.2. The appeal site is zoned “Z1” where the objective is *“to protect, provide and improve residential amenities.”* The construction of an additional apartment would be acceptable in principle subject to an assessment of the impact of the proposal on residential amenity and compliance with other relevant Development Plan policies and objectives.
- 7.2.3. The Planning Authority issued notification of decision to refuse permission for the proposed apartment for reasons relating to sunlight and daylight and overbearing impacts. I agree that the outstanding issues pertaining to this application are impacts on residential and visual amenity and that the proposal satisfies other relevant criteria as assessed by the Planning Authority relating to site development and residential standards. There are no issues of overlooking of adjoining property occurring from the proposed development. It should be noted that the Housing Needs Demand Assessment requires 15% of units to be 3-bed at this location; however, the Planning Authority considered the proposed unit mix to be acceptable, noting in its assessment that only one additional unit is proposed, and the

requirements in relation to unit mix are generally disregarded for developments with less than ten units.

7.3. Impact on Residential Amenity

- 7.3.1. In its reason for refusal, the Planning Authority refers to the Sunlight and Daylight Assessment submitted as further information and considers that the proposal would further reduce light to the existing residential units at Royal Canal View to the north of the site to an unacceptable level. In response to this element of the reason for refusal, the applicant resubmitted the “Daylight Analysis and Overshadowing” dated 25th October 2023 but does not elaborate or respond further in the first party appeal, other than to state that the proposed rear extension does not negatively impact on the units to the rear as demonstrated in the assessment.
- 7.3.2. It is stated in the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, 2022 that *“planning authorities should avail of appropriate expert advice where necessary and have regard to quantitative performance approaches to daylight provision outlined in guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context, when undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision.”* The “Daylight Analysis and Overshadowing” was conducted in accordance with these guidelines.
- 7.3.3. For daylight to existing buildings, the 2022 BRE Guidelines recommends the calculation of the Vertical Sky Component (VSC), which is the ratio of direct sky illuminance falling on the outside window to the simultaneous horizontal illuminance under an unobstructed sky. Annual Probable Sunlight Hours (APSH) and Winter Probable Sunlight Hours (WPSH) are used to assess the quantity of sunlight for a given location. For sunlight to gardens and open spaces, at least half the space should receive at least two hours sunlight on the 21st March. The calculated values for each of these factors should not be less than 0.8 times their former value.
- 7.3.4. The applicant’s analysis sought to create a 3D computer model of the previously permitted scheme and the new scheme with the extra floor, together with an

assessment of the amenity spaces and VSC for the permitted and proposed developments. Of the two amenity areas assessed, both are predicted to surpass the 50% level of sunlight on 21st March or do not reduce to less than 0.8 times the existing value.

- 7.3.5. Of the 14 no. windows in the adjoining property assessed for VSC, 11 no. are predicted to surpass the 27% level or do not reduce to less than 0.8 times the value achieved for the already permitted development. A VSC value of greater than 27% is considered acceptable within "Site Layout for Daylight and Sunlight, a Good Practice Guide." It is submitted that the three windows that fail were already at a level less than four times smaller than the minimum required level. Values of 6.91, 8.7 and 9.31 were recorded without the proposed apartment and these values reduce to 4.39, 5.55 and 6.0 respectively with the proposed apartment at 5th floor level. The applicant's assessment concludes that the newly proposed development does not vastly reduce the quality of light compared to the already granted scheme.
- 7.3.6. The Planning Authority points out that the smaller affected area of garden currently receives no sunlight during Spring Equinox and the proportion of the larger space which receives two hours sunlight during the Spring Equinox reduces from c. 87 sq.m. to c. 56 sq.m. Furthermore, it is noted that the 3 no. windows that would not meet the minimum standard for VSC are situated in a link building and it is not clear if these windows serve the same residential unit, what rooms they serve or what compensatory factors may apply, such as additional windows serving the rooms. It appears likely to the Planning Authority that these windows serve habitable rooms. Thus, there is concern regarding any further loss of light to these existing south facing windows.
- 7.3.7. Clearly, the permitted and proposed development will give rise to adverse impacts on Royal Canal View apartments in terms of assess to daylight and sunlight. In particular, the proposal will decrease the level of daylight to three of the most impacted windows. I accept that this is now a tightly configured urban area and it is difficult to achieve minimum criteria in these circumstances. Moreover, some degree of overshadowing is to be expected if an infill site was to be developed in accordance with the prevailing pattern of development in the area. However, in this case, I do not accept that the additional storey is consistent with the established

development pattern and I shall expand upon this below. I also agree with the Planning Authority that insufficient information is submitted on the affected windows.

Overbearing impact

- 7.3.8. The reason for refusal also refers to the overbearing impact of the proposed development when viewed from the rear of No. 1 St. Peter's Close to the south. Overbearing impacts are associated with excess mass and bulk of a new structure in close proximity. Overbearing effects are particularly apparent when a structure appears monolithic.
- 7.3.9. I consider that the southern elevation to the rear of the new apartment block behind the void with an additional storey and without any openings or features to break up the massing of the structure, will give rise to overbearing impacts when viewed from St. Peter's Close to the south. The building is already constructed as four storeys and this gives an impression of the relative bulk of the structure and the likely impact of an additional set-back storey. It is also noteworthy that the proposed additional storey will result in a structure that is approximately double the height of No. 1 St. Peter's Close.

7.4. Visual Impact

- 7.4.1. Royal Canal Bank has a unique character with terraces and rows of dwellings addressing the linear park. The park is defined by lines of trees, continuous railings and pathways which contribute to its elongated appearance. The buildings lining Royal Canal Bank are not uniform in height but most are 2-storeys. Notwithstanding the variation in architectural styles, these buildings address the linear park in a consistent manner with no individual structure forming an obtrusive element.
- 7.4.2. In my opinion, the height of a 5-storey structure will have an overly prominent appearance which would be exacerbated by the linear nature of park and road. I note that photomontages have been taken from Phibsborough Road and directly in front of the proposed building when the most desirable location for assessment of visual impact would have been further to the north and south on Royal Canal Bank. However, the as-built structure gives the viewer the benefit of seeing the existing four storey height and the likely appearance of an additional storey.

- 7.4.3. The side elevations of the proposed penthouse apartment will be visible, particularly from the south when exiting Blessington Basin. Essentially, this unit would be seen by itself above all others along the significant length of Royal Canal Bank. I consider this to be unacceptable from visual amenity perspective and in terms of the proportions of the entire building in relation to the linear nature of the street and park.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise.

8.0 Recommendation

- 8.1. It is considered that the proposed development should be refused for the reasons and considerations hereunder.

9.0 Reasons and Considerations

1. Having regard to the overall design, scale and height of the apartment building and its location adjoining Royal Canal View, the Board is not satisfied, based on the information submitted within the planning application and appeal, that the additional height and mass achieved by the proposed penthouse apartment, would not have a significant impact on adjoining residential amenity by way further reduction in light to existing residential units in the apartment building to the north, and in terms of overbearing impacts on dwellings within St. Peter's Court to the south. It is therefore considered that the proposed development would seriously injure the residential amenities of adjoining occupiers and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site on Royal Canal Bank and the relationship between the streetscape and linear park, the Board considers that it has not been adequately demonstrated from a visual perspective that the proposed additional storey at fifth floor level would not form an obtrusive

feature, particularly when viewed along the linear park and when egressing the historic Blessington Basin. It is therefore considered that the proposed development would seriously injure the visual amenities of the park and streetscape and would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Donal Donnelly
Senior Planning Inspector

5th March 2024