



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319521-24

<b>Development</b>	Demolition of garage, construction of house and associated site works.
<b>Location</b>	Rear of 4 Waverley Terrace bounded by numbers 3 & 4 Waverley Terrace to the north, 5 Waverley Terrace to the east, 54A Rathgar Avenue to the south & Rathgar Avenue to the west, Dublin 6
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	WEB1095/24
<b>Applicant(s)</b>	William Doyle.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	William Doyle.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	24 <sup>th</sup> September 2024

**Inspector**

Terence McLellan

## **1.0 Site Location and Description**

- 1.1. The subject site relates to a small plot of land to the rear of Nos. 3 and 4 Waverly Terrace. The site is currently occupied by a single storey garage with double doors opening onto Rathgar Avenue, which forms the western boundary. The site is bounded to the north by the rear gardens of Nos. 3 and 4 Waverley Terrace, to the east by the rear garden ground and extensions of No. 5 Waverley Terrace, and bounded to the south by a vehicular access and the adjacent dwelling/plot at 54A Rathgar Avenue. The subject site lies close to the junction of Harolds Cross Road, Kenilworth Park, Kenilworth Square and Rathgar Avenue. The surrounding area is predominantly residential and characterised by two storey properties.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for the demolition of the existing garage and the erection of a two storey mews style dwelling. The dwelling would incorporate a Juliet balcony at first floor level on the Rathgar Avenue elevation in addition to a small area of open space to the front, concealed behind the boundary wall. The roof, front, and rear facades of the dwelling would be clad in seamed metal cladding and the gables would be rendered. Bin storage and parking for two bicycles would be provided in the front amenity space.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Notification of the Decision to Refuse Permission was issued by Dublin City Council on 21<sup>st</sup> March 2024. Permission was refused for the following reason:
1. Having regard to the orientation of the site, the restricted nature of the plot, substandard private open space, and proximity and location of the proposed two storey mews to adjoining properties at numbers 3, 4 and 5 Waverley Terrace, the proposed development would constitute overdevelopment of the site, and result in an overbearing form of development, which may result in significant overshadowing to adjoining properties. The proposed development

would seriously injure the residential amenities of properties in the vicinity and would be contrary to Policy BHA9 of the Dublin City Development Plan (2022-2028), which seeks to protect the special interest and character of Dublin's Conservation Areas, and would thereby be contrary to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

3.2.1. The Planner's Report contains the following points of note:

- The report notes the restricted form of the plot and the single aspect nature of the proposed dwelling, noting that glazing is on the southern aspect.
- The car free nature of the development is acceptable given the proximity and availability of public transport.
- The aggregate living area of the dwelling would be below the minimum standards and the report notes that no detailed storage has been indicated on the drawings.
- The Planning Authority confirm that they would consider a reduction in private open space standards, due to the nature of the development as a restricted urban infill.
- Concerns raised regarding the siting/location of the development in relation to the neighbouring dwellings (nos. 4 and 5 Waverley Terrace). It is considered that the development would have an adverse impact on neighbouring properties in terms of overshadowing and that it would be overbearing.
- The report notes the location of the site in a Z2 Conservation Area and states that the proposal would be an incongruous form of development on a tight urban plot, due to its location forward of the building line, and would be overbearing on dwellings to the west.

3.2.2. **Other Technical Reports**

3.2.3. **Drainage:** No objection, subject to standard conditions.

3.2.4. **Transport:** No objection, subject to standard conditions

### **3.3. Prescribed Bodies**

3.3.1. None.

### **3.4. Third Party Observations**

3.4.1. Two observations were received raising the following points:

- The proposal is overdevelopment and too close to nos. 3 and 4 Waverley Terrace.
- The development would be overbearing on nos. 3 and 4 Waverley Terrace and would result in overshadowing.
- Drainage in the area is already at maximum capacity.

## **4.0 Planning History**

4.1. There is no planning history available for the subject site. On the adjacent site at 5 Waverley Terrace there is a permission for rear extensions as follows:

- WEB1644/23: Planning permission granted by Dublin City Council in November 2023 for a first floor extension to the rear of the existing dwelling and all associated internal and elevational alterations, site, landscaping and ancillary works.
- WEB1519/23: Planning permission was granted in September 2023 for alterations to existing single storey ground floor extension consisting of extension to side and new porch/lobby extension to rear, new flat roof, new side door to existing rear return at ground level and all associated internal and elevational alterations, site, landscaping and ancillary works.

## **5.0 Policy Context**

### **5.1. Dublin City Development Plan 2022 – 2028**

5.1.1. The relevant Development Plan is the Dublin City Development Plan 2022-2028, which came into effect on 14th December 2022.

- 5.1.2. The site is zoned 'Z2' Residential Neighbourhoods (Conservation Areas) with a stated objective 'to protect and / or improve the amenities of residential conservation areas'. The principal land-use encouraged in residential conservation areas is housing.
- 5.1.3. Section 15.15.2.2 'Conservation Areas' provides that all planning applications for development in Conservation Areas shall:
- Respect the existing setting and character of the surrounding area.
  - Be cognisant and/ or complementary to the existing scale, building height and massing of the surrounding context.
  - Protect the amenities of the surrounding properties and spaces.
  - Provide for an assessment of the visual impact of the development in the surrounding context.
  - Ensure materials and finishes are in keeping with the existing built environment.
  - Positively contribute to the existing streetscape.
- 5.1.4. Policy BHA9 applies to development in Z2 'Conservation Areas' and provides that development within a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.
- 5.1.5. Section 15.5.2 relates to infill development, which should complement the existing streetscape, providing for a new urban design quality to the area. It is particularly important that proposed infill development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape. Dublin City 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.

5.1.6. It is the Policy of Dublin City Council under 5.5.2 Regeneration, Compact Growth and Densification: - QHSN5 Urban Consolidation: To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation.

## 5.2. **Natural Heritage Designations**

5.2.1. None of relevance.

## 5.3. **EIA Screening**

5.3.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. A First Party Appeal has been submitted by WeDesignStuff, for and on behalf of William Doyle (the Appellant), against the decision of Dublin City Council to refuse planning permission. The grounds of appeal can be summarised as follows:

- The site is located in an area of Dublin with a long-standing history of, and unique charm created by mews development.
- Due to site orientation, the impact on views from properties on Rathgar Avenue and access to sunlight are minimal and compliant with the BRE.
- Section 15.13.4 of the Dublin CDP relates to mews/infill development. The proposal is considered to comply with the requirements of the CDP in terms of:
  - Compliance with internal minimum space standards.
  - Use of rooflights and road facing windows to maintain privacy.
  - Cycle parking provision and car free nature given proximity to public transport.
  - Scale and massing subservient to surrounding buildings, intentionally differentiating the mews development.
  - Full compliance with the BRE in terms of daylight/sunlight.
  - Materials in an area with an eclectic material pattern (precedent examples given).
- The development does not comply with separation distance and minimum garden depth requirements. The policy allows a relaxation in garden depth when sufficient open space is provided to serve the dwelling, and it can be demonstrated that the development would not impact on adjoining residential amenity. Windows and rooflights have been positioned to ensure no overlooking and the provision of quality light and views.
- The subject site has long been orphaned from adjacent sites by historic land sales, it is overgrown with a storage shed nearing the end of its life. The



development would bring the site back into active use with a contemporary structure of sensitive scale.

- The eaves height brings the roofline as low as possible. This serves to ensure subservience to adjacent properties and BRE compliance (overshadowing/daylight).
- The Planning Authority have no objection to the principle of amenity space at the front of the house in this instance, or the Juliet balcony, which is reasonable within this context and within a restricted urban infill site.
- The open space is comparable to other precedent development, exceeds what would be required for a similar sized apartment, and would be screened by the boundary wall and high gate. There are also significant public open spaces in the immediate area (Kenilworth Square c.100m, Harold's Cross Park and Mount Argus Park c.600m, Eamonn Ceannt Park c.1km).
- The building would not be overbearing or result in overdevelopment, nor would it impact on privacy, views, or overshadowing/daylight.
- The internal space complies with Housing Design Standards and dedicated storage is provided, contrary to the Planner's Report.
- The subject site is not within an Architectural Conservation Area, the Z2 zoning that the site is within does not have a statutory basis in the same manner as Protected Structures or ACA's.
- The proposal is fundamentally aligned with the unique character that the Z2 zoning seeks to protect.

## **6.2. Planning Authority Response**

6.2.1. The Planning Authority request that the Board uphold the decision to refuse permission and that if permission is granted then the following conditions be imposed:

- Payment of a Section 48 development contribution
- Street naming and numbering

### **6.3. Observations**

6.3.1. None.

### **6.4. Further Responses**

6.4.1. None.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Design, Amenity, and Quantum of Development
- Internal Space Standards and Private Open Space

### **7.2. Design, Amenity and Quantum of Development**

7.2.1. The Planning Authority consider the proposal to be overdevelopment and that it would be an incongruous form of development on a tight urban plot due to its location forward of the building line. It is considered that the proposal would be overbearing on neighbouring dwellings and that there would also be impacts in terms of overshadowing.

7.2.2. The Appellant argues that the proposal is not overdevelopment and considers that the building would not be overbearing, nor would it impact on privacy, views, or overshadowing/daylight. The Appellant states that the eaves height brings the roofline as low as possible and that this serves to ensure subservience to adjacent properties and BRE compliance (overshadowing/daylight).

7.2.3. In terms of the positioning of the proposed dwelling, I do not share the Planning Authority's concerns with regards to the building line. Whilst I agree that it would sit proud of 54A Rathgar Avenue and the dwellings to the south east, the proposal would be read as part of the collection of buildings at Waverley Terrace and would not be an incongruous feature in terms of building lines within that context.

- 7.2.4. The dwelling has been designed in order to minimise overlooking, with windows positioned on the south west façade only. As such there would be no overlooking of adjacent properties or any loss of privacy. I do not consider that the dwellings opposite the appeal site on Rathgar Avenue would experience any significant overlooking issues.
- 7.2.5. I have reviewed the daylight and sunlight information submitted by the Appellant and agree that it demonstrates that amenity spaces would meet sunlight requirements and that generally, all windows would meet BRE VSC requirements. Two windows would experience noticeable reductions in VSC. These windows are located on the ground floor south facing rear return of No. 4 Waverley Terrace. On balance, I would consider the proposed VSC levels for these windows to be acceptable in an urban area, with retained levels of 22.6% VSC and 25.1% VSC.
- 7.2.6. However, I have significant concerns regarding the scale and positioning of the proposed dwelling relative to its immediate neighbours and the neighbouring built form. Whilst noting the Appellant's efforts to minimise eaves height, I consider the overall height, scale and massing to be excessive for such a tight and constrained site. The dwelling would be built up to the boundaries, with an eaves height of 5.2m and a ridge height of 7m. This would be immediately adjacent to the ground floor extension of No. 5 Waverley Terrace and just 3.7m from the rear return of No. 4 Waverley terrace which would site directly opposite the gable elevation, enclosing No. 4's principal amenity space. In my opinion, the proposed development would be overbearing on Nos. 4 and 5 Waverley Terrace, would compromise their residential amenity, and would represent overdevelopment of the site.

### **7.3. Internal Space Standards and Private Open Space**

- 7.3.1. The Planning Authority note that the aggregate living area of the dwelling would be below the minimum standards and that no detailed storage space has been indicated on the drawings. In terms of private open space, the Planning Authority confirm that they would consider a reduction in private open space standards, due to the nature of the development as a restricted urban infill but the reason for refusal includes deficient private open space.
- 7.3.2. The Appellant states that the internal space complies with Housing Design Standards and that dedicated storage is provided. It is also stated that the Planning Authority

have no objection to the principle of amenity space at the front of the house in this instance, or the Juliet balcony, which the Appellant considers to be reasonable within this context and within a restricted urban infill site, with public amenity spaces located nearby.

- 7.3.3. Overall, the proposed dwelling would exceed the minimum floorspace standards for a one bedroom property. However, the standards are based on a one storey property and I note that the main living space is deficient and I agree with the Planning Authority that no storage space has been indicated on the plan. Overall, the shortfall in floorspace is minimal and I do not consider that the development should be refused on that basis. Likewise, noting the site constraints, I consider the provision of some private open space to the front acceptable in this instance, supplemented by access to nearby public amenity spaces/parks. Given the nature and scale of the development, would consider the open space provision to be acceptable in this instance.

## **8.0 AA Screening**

- 8.1. Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

## **9.0 Recommendation**

- 9.1. I recommend that the Board uphold the decision of Dublin City Council and refuse planning permission for the following reason:

## **10.0 Reasons and Considerations**

Having regard to the restricted nature of the plot and positioning/siting of the proposed dwelling relative to the immediately adjoining properties at Nos. 4 and 5 Waverley Terrace, it is considered that the proposed development would constitute overdevelopment of the site and would result in an overbearing form of development

that would seriously injure the residential amenities of properties in the vicinity 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.

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Terence McLellan  
Senior Planning Inspector

31<sup>st</sup> October 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	319251-24		
<b>Proposed Development Summary</b>	Demolition of garage, construction of house and associated site works.		
<b>Development Address</b>	Rear of 4 Waverley Terrace bounded by numbers 3 & 4 Waverley Terrace to the north, 5 Waverley Terrace to the east, 54A Rathgar Avenue to the south & Rathgar Avenue to the west, Dublin 6		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>	X	Class 10 (b) (i), threshold >500 dwellings.	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Appendix 2

### Form 2

#### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-319521-24	
<b>Proposed Development Summary</b>	Demolition of garage, construction of house and associated site works.	
<b>Development Address</b>	Rear of 4 Waverley Terrace bounded by numbers 3 & 4 Waverley Terrace to the north, 5 Waverley Terrace to the east, 54A Rathgar Avenue to the south & Rathgar Avenue to the west, Dublin 6	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development is for residential, in an area that is largely characterised by residential use. The proposed development would therefore not be exceptional in the context of the existing environment in terms of its nature.</p> <p>The development would not result in the production of any significant waste, emissions or pollutants.</p>	No.
<b>Size of the Development</b>	The development would generally be consistent with the scale of surrounding developments and	No.



<p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>would not be exceptional in the context of the existing environment.</p> <p>There would be no significant cumulative considerations with regards to existing and permitted projects/developments.</p>	
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The development would be located in a serviced residential area and would not have the potential to significantly impact on an ecologically sensitive site or location. There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other urban developments.</p> <p>Given the nature of the development and the site/surroundings, it would not have the potential to significantly affect other significant environmental sensitivities in the area. It is noted that the site is not designated for the protection of the landscape or natural heritage and is not within an Architectural Conservation Area.</p>	No.
<p style="text-align: center;"><b>Conclusion</b></p>		

<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>		
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**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_