



An
Bord
Pleanála

Inspector's Report ABP-320906-24

Development	<i>Retention of subdivision of 2 storey house into two separate apartments</i>		
Location	<i>35 Darley's Terrace, St Catherine's Dublin 6</i>		
Planning Authority Ref.	<i>4000/24</i>		
Applicant(s)	<i>Darren O'Rourke</i>		
Type of Application	<i>Retention</i>	PA Decision	<i>Refuse Retention</i>
Type of Appeal	<i>First</i>	Appellant	<i>Darren O'Rourke</i>
Observer(s)	<i>None</i>		
Date of Site Inspection	<i>11/12/2024</i>	Inspector	<i>Andrew Hersey</i>

Context

1. Site Location/ and Description. The site is located at 35 Darley's Terrace being a mid-terrace two storey period property located in Dublin 6.

There is a flat roofed return to the rear and submissions on file shows for a rear garden area less than 1.0 metres deep. There is no front garden with a footpath traversing alongside the front of the property

Car parking is on street parallel to the kerb.

2. Description of development. *The proposed development comprises of*

- Retention Permission for the subdivision of a 2 storey house into two separate apartments
- There is one apartment at ground floor and one at first. Both apartments are accessed by an existing front door into a lobby where there is a separate internal door to the ground floor apartment and a stairs serves the first floor apartment.
- Both apartments are one bedroomed.

3. Planning History.

- Planning Reg. Ref. 3160/22 granted retention permission for a two storey rear extension
- An Enforcement Notice was served requiring the cessation of use of the property as two habitable units (E0682/23)

4. National/Regional/Local Planning Policy

Dublin City Development Plan 2022-2028

- Dublin City Development Plan 2022-2028 is the statutory development plan in the area where the proposed development site is located.
- Within the plan the site is subject to zoning objective 'Z1' – To protect, provide and improve residential amenities.
- Appendix 18 Section 6.0 Subdivision of Dwellings 'Dublin city will consider the subdivision of larger homes in the city subject to compliance with the relevant standards for apartment units
- Section 15.9 Development Standards Apartment Units states that The Sustainable Urban Housing: Design Standards for New Apartments (December 2020) or any other future amendment thereof is the standard for apartment units in Dublin City.

Sustainable Urban Housing: Design Standards for New Apartments (2024)

- Sets out the relevant standards for new apartment buildings

5. Natural Heritage Designations

The nearest designated sites are:

- Grand Canal pNHA (Site code 002104) is located 600 metres to the south of the site
- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) is located 5km to the east of the site.
- South Dublin Bay SAC (Site Code 000210) is located 5km to the east of the site

Development, Decision and Grounds of Appeal

6. PA Decision. Retention Permission was refused for the following reason:

It is considered that the development to be retained provides a significantly substandard level of residential amenity, as it fails to meet the qualitative and quantitative standards set out in the relevant Ministerial Guidelines – Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities (DOHPLG 2023) and in Section 15.9 Apartment Standards of the Dublin City Development Plan 2022-2028. The proposal is therefore contrary to the Ministerial Guidelines, the Dublin City Development Plan 2022-2028 and the proper planning and sustainable development of the area.

7. Submissions

None received

8. Internal Reports

- Transportation Planning Section (dated 10th July 2024) – no objection subject to 2 no. cycle parking spaces being provided and that refuse bins are not stored on the public footpath
- Engineering Dept. Drainage (29th July 2024) - no objection

9. First Party Appeal.

A first party appeal was lodged by Darren O'Rourke on the 25th September 2024. The appellant raises the following issues:

- That the guidelines *Sustainable Urban Housing: Design Standards for New Apartments (2024)* relates to new builds whereas the proposed development is the subdivision of an existing house
- That the floor area of the original 2 bed house would only meet the requirements of a 1 bedroomed apartment under the quoted guidelines and therefore it is unfair to impose current design guidelines in relation to existing dwellings

11. Observations

None received

12. Planning Authorities Response

None received

Environmental Screening

13. EIA Screening

Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Planning & Development Regulations 2001(as amended), I have concluded at preliminary examination that 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. See Form 1 and Form 2 attached to this report.

14. AA Screening

I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located within the vicinity of the following Natura 2000 sites;

- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) is located 5km to the east of the site.
- South Dublin Bay SAC (Site Code 000210) is located 5km to the east of the site

The proposed development comprises of the subdivision of single residential property into two residential properties in a urban area. No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The minor nature of the works proposed
- The distances to the nearest Natura 2000 site and the absence of any hydrological connect from the site to the same and
- Having regard to the screening report/determination carried out by the Planning Authority

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

2.0 Assessment

2.1. Introduction

- 2.1.1. I have examined the application details and all other documentation on file and I have inspected the site and have had regard to relevant local development plan policies and guidance.
- 2.1.2. I am satisfied the substantive issues arising from the grounds of this third party appeal relate to the following matters-
- Principle of Development

- Sustainable Urban Housing: Design Standards for New Apartments (2024)
- Parking

2.2. Principle of Development

- 2.2.1. The proposed development site is located within an area designated with zoning objective Z1, in the Dublin City Development Plan 2022-2028. Zoning objective Z1 seeks *'To protect, provide and improve residential amenities'*
- 2.2.2. Additionally, Appendix 18 Section 6.0 Subdivision of Dwellings states that *'Dublin city will consider the subdivision of larger homes in the city subject to compliance with the relevant standards for apartment units'*
- 2.2.3. Having regard to the above zoning objective, and subject to compliance with the *'relevant standards for apartment units'* which in this case are the Section 28 Ministerial *Guidelines Sustainable Urban Housing: Design Standards for New Apartments (2024)* it is considered that the subdivision of a residential house at this location is acceptable in principle.
- 2.2.4. I refer to the appellants assertion that these guidelines should not apply to existing buildings, it is explicit in Appendix 18 Section 6.0 Subdivision of Dwellings that such guidelines shall apply in the case of proposals for subdivision of dwellings.

2.3. Sustainable Urban Housing: Design Standards for New Apartments (2024)

- 2.3.1. I refer to Section 3.4 of the above guidance which states that the minimum area for a 1 bedroomed apartment is 45sq.m.
- 2.3.2. The proposed apartments have a floorspace of circa 35sq.m each which includes for the stairwell for each of the apartments thereby reducing the usable floorspace further.
- 2.3.3. The proposal is therefore below the minimum standard for 1 bedroomed apartments as set out in the guidelines.
- 2.3.4. I also note that a one bed apartment as per the guidelines require 5sq.m. of open space (as set out in Appendix 1 of the guidelines). While the ground floor unit has some private open space at the rear (3.23sq.m.) the first floor has no private open space allocation.

2.4. Parking

- 2.4.1. I note that parking is on street in front of the proposed development site which is adequate for 1 car. On the date of the site visit kerbside parking was full. I note the report from the Transportation Department on file which states that the site is located within walking distance of high frequency public transport and that there are a number of existing bike stands in the vicinity of the site.
- 2.4.2. The same report states that car parking is not required in accordance with development plan policy. Development Plan policy requires 2 cycle spaces to serve the development which can be accommodated in the area of open space to the rear of the ground floor apartment.
- 2.4.3. I concur with this recommendation with respect to the required provision for no further car parking and the requirement for cycle parking on site.

3.0 Recommendation

- 3.1. I recommend that permission be refused for the following reason:

- 1. Section 6.0 of Appendix 18 of the Dublin City Development Plan 2022-2028 refers to *subdivision of dwellings* and states that 'Dublin city will consider the subdivision of larger homes in the city subject to compliance with the relevant standards for apartment units' The latest relevant standards for apartment units are the Ministerial Guidelines, Sustainable Urban Housing: Design Standards for New Apartments (2024) which recommends minimum floor areas and areas of private open space for 1 bedroomed apartments. The proposed development for retention falls short of these minimum standards and therefore the proposal is contrary to the Ministerial Guidelines, the Dublin City Development Plan 2022-2028 and 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.

Andrew Hersey

Planning Inspector

10th January 2024