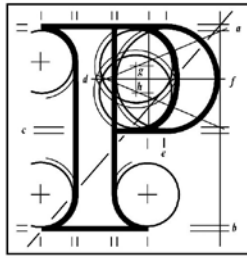


# An Bord Pleanála



## Inspector's Report

**Development:** Demolition of lean-to single storey extension and bay window to rear, construction of new single storey rear extension and garden shed, provision of new internal stairs to attic floor and construction of dormer window to rear of same, other works of repair, removal, replacement, refurbishment, installation and decoration to protected structure at 68 Brighton Road, Rathgar, Dublin 6.

### Application

Planning authority: Dublin City Council  
Planning application reg. no. 3033/14  
Applicant: Mary Carty  
Type of application: Permission  
Planning authority's decision: Grant, subject to 10 conditions

### Appeal

Appellant: Mary Carty  
Type of appeal: First party -v- Condition 2  
Observers: None  
Date of site inspection: 6<sup>th</sup> January 2015  
Inspector: Hugh D. Morrison

## Site

The appeal site is located towards the northern end of Brighton Road and on its western side. This Road runs between Terenure Road East and Brighton Square/Garville Avenue. It is composed of a variety of two storey/two storey over basement detached, semi-detached and terraced dwelling houses, which date from the latter decades of the 19<sup>th</sup> century. These dwelling houses are typically bay fronted and they are all finished in red brick to their principal elevations. The majority of front gardens are bound by railings with a minority, including that of the appeal site and the adjoining site to the north, bound by red brick walls. Mature landscaping to these gardens adds to the established and well-appointed character of the Road.

The appeal site and the neighbouring site to the north accommodate a pair of two storey semi-detached dwelling houses with three storey half width returns. The former return has a more recent single storey lean-to extension on its rear elevation, while the latter one has a three storey extension and an accompanying fire escape. The principal elevations of both dwelling houses are of plain and simply design, apart from the feature front doorways that incorporate in each case an arched opening and a recessed front door. Additionally, the dwelling house on the appeal site has on its LHS an under passage that links the front and rear gardens via flights of steps at either end. While this passage is not replicated in the adjoining dwelling house to the north, a blocked opening in the party wall between the two adjoining rear gardens suggests that the passage may have been originally intended to serve this dwelling house, too.

The appeal site is of rectangular shape and it extends over an area of 385 sqm. The elongated rear garden steps up beyond the aforementioned lean-to extension and it is bound by walls composed variously of stone and brick. A back lane abuts the southern boundary.

## Proposal

The formal description of the proposal contains the following elements:

- Repair and repointing of brick garden wall to front,
- Repointing of brickwork to front elevation,
- Refurbishment of original sash windows to front and replacement of non-original windows to rear,
- Removal of cill and wall below cill to rear reception room to provide doorway,
- Removal of non-original partitions, suspended ceilings, fittings and fixtures,

- Replacement of modern fireplace surrounds with historically appropriate surrounds,
- Demolition of lean-to single storey extension and bay window to rear (total area 13.2 sqm),
- Construction of new single storey extension to rear (total area 51.8 sqm),
- Repair of natural slate roof,
- Replacement of rain water gutters and downpipes,
- Localised repair to chimneys,
- Provision of drying lining to return,
- Provision of new internal stairs to attic floor (24.7 sqm) and construction of dormer window to rear of same,
- Installation of new bathrooms, partitions and associated ancillary works,
- Renewal of mechanical and electrical services,
- Decoration throughout, and
- Construction of garden shed to rear garden.

The proposal would entail the retention of 171.7 sqm of floorspace and the addition of 76.5 sqm, including the floorspace that would be the subject of the attic conversion for use as a study. The resulting total floorspace would be 248.2 sqm.

### **Planning authority's decision**

Permission granted subject to 10 conditions, the second of which states the following:

*2. The development shall be revised as follows:*

*(a) The ground floor rear extension shall be revised so that external access to the under passage and to the rear garden is retained as follows:*

*(i) An open space to the rear of the house/rear reception room shall be provided, approximately corresponding to the glazed roof area of the ground floor extension indicated on drawing no. P14.*

*(ii) The steps and side wall to the under passage shall be retained.*

*(iii) The southern elevation of the rear ground floor extension shall be setback by a minimum of 1m from the southern boundary in order to retain the open access to the rear garden.*

*(b) The two rooflights in the rear roof plane over the attic room shall be omitted and the stained glass laylight shall be reused, to be relocated to below the stairwell rooflight.*

*Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the occupation of the buildings.*

*Reason: In the interest of protecting the special character of the protected structure.*

### **Technical reports**

- City Archaeologist: No objection, subject to condition.
- Drainage Division: No objection, subject to conditions.
- Conservation Officer: No objection, subject to conditions.

### **Grounds of appeal**

The appeal is against condition no. 2, which was attached to the planning authority's draft permission. Attention is drawn to four relevant criterion cited in Section 17.10.1 of the CDP as being relevant to the determination of applications for protected structures. The grounds of appeal are set out under each of these criteria and, in the light of the same, condition no. 2 is considered to be unduly onerous.

- The importance of the building, its intrinsic special architectural and/or historic interest and rarity:

The dwelling house at No. 68 shares with the other houses on Brighton Road a common language of windows, joinery materials, roofscapes and chimneys. This dwelling house, uniquely, has an under passage, which would be retained, enhanced and used daily under the current proposal. It is typical of the nineteenth century insofar as its design and layout reflects the importance that was attached to the main body of the dwelling house rather than its rear quarters and back garden. By contrast, great importance is now attached to kitchens and back gardens and this change in attitude is reflected in this proposal.

The courtyard and side passageway envisaged by condition no.2 would be permanently in shadow and so they would be damp spaces that would risk being, variously, unused and rarely used. As such, they would replicate the

problems associated with the existing space to the rear of the main body of the dwelling house and to the side of its return.

- Particular physical features of the building, external and internal:

The proposed rear extension would cover, by means of a light weight glass case, the rear granite steps to the under passage, thereby protecting the same from the weather. These steps would connect with the proposed kitchen and so this under passage would act as a “back door” to this room.

The aforementioned design of the proposed rear extension would, as a contemporary addition, be clearly distinguishable from the original dwelling house and it would be readily reversible. The width of this extension and its direct connection to living rooms in the main body of the dwelling house would facilitate the full utilisation of the extended dwelling house. By contrast, the reduced size of this extension and the associated introduction of a courtyard and side passageway envisaged by condition no. 2 would thwart this objective.

The southern side boundary wall abuts a rear laneway. The applicant proposes to apply for a separate planning permission to inset a gate in this wall, which would facilitate any construction phase of the current proposal.

- The extent and impact of interventions and alterations proposed and that which have already taken place excluding unauthorised development:

The proposed rear extension would add 2.4m to the rear building line of the return to the existing dwelling house. (This extension would also “fill in” the space to the side of this return). The depth of the rear garden would, as a consequence, contract from 30.4m to 28m.

The planning authority has previously granted permission for full width extensions to protected structures at 45 Rathgar Road (2699/14) and 35 Mespil Road (2796/14).

- Setting and contribution to streetscape:

The proposed rear extension would not be visible from Brighton Road and so it would have no effect upon the existing streetscape.

## **Response**

The planning authority considers that the case planner’s report addresses the grounds of appeal and justifies the decision reached.

## Planning history

- Appeal site

None

- Adjoining site to the north, No. 69 Brighton Road

3234/14: Demolition of existing three storey modern return and escape stairs, demolition of existing single storey sheds to rear, internal alterations to existing historic dwelling including new roof lights over stairs, internal alterations to historic return, new windows to existing door openings in historic return, new single storey extension with roof lights to rear of existing dwelling (a protected structure) at 69 Brighton Road, Rathgar, Dublin 6: permission was granted subject to 8 conditions, including the following one, which is the subject of appeal PL29S.244040:

*The northern elevation of the rear ground floor extension shall be setback by a minimum of 1.0m from the northern boundary.*

*Development shall not commence until revised plans, drawings and particulars showing the above amendment have been submitted to, and agreed in writing by the planning authority, and such works shall be fully implemented prior to the occupation of the buildings.*

*Reason: To reduce the impacts in terms of overshadowing to the rear of the neighbouring property to the north and to retain a connection from the principal structure to the rear garden.*

## Development Plan

Under the Dublin City Development Plan 2011 – 2017 (CDP), the appeal site lies within an area that is zoned Z2, wherein the objective is “To protect and/or improve the amenities of residential conservation areas.”

The dwelling house on the appeal site is a protected structure (RPS ref. no. 977). Under Sections 17.10.2 & 3, the CDP addresses works to protected structures and development within the curtilage of protected structures, respectfully.

This dwelling house is near to the Zone of Archaeological Constraint for Recorded Monument, DU022-080, Windmill.

## National planning guidelines

Architectural Heritage Protection

## Assessment

This is a first party appeal against the imposition of condition 2 upon the draft permission granted by the planning authority to application reg. no. 3033/14. With respect to such appeals, the Board has, under Section 139 of the Planning and Development Act, 2000 – 2012, the discretion to simply address the matters relating to the appealed condition rather than considering the proposal on a *de nova* basis in its entirety. I have reviewed the current proposal and I consider that the provisions of Section 139 are applicable in this case.

Whereas the applicant has appealed condition 2, her grounds of appeal pertain to part (a) of this condition rather than part (b). In these circumstances, while I will address both parts, the burden of my assessment will relate to part (a).

I have reviewed the current proposal in the light of national planning guidelines, the CDP, relevant planning history, and the submissions of the parties. Accordingly, I consider that this appeal should be assessed under the following headings:

(i) Condition 2(a), and

(ii) Condition 2(b).

### **(i) Condition 2(a)**

1.1 The dwelling house on the appeal site is a protected structure. The applicant has elucidated the special interest of this dwelling house in terms of its commonalities with other dwelling houses on Brighton Road and the streetscape that they collectively form. She also acknowledges the uniqueness of the under passage and explains how, under the current proposal, it would be retained and incorporated within the proposed single storey rear extension. Such incorporation would ensure that the passage functions as a “back door” to this extension and so remains in use. It would also afford protection to the same from the weather.

1.2 Condition 2(a), which is the subject of this appeal, requires that the passage remain open to the rear and that it connects with a courtyard and new pathway between the said extension and the southern boundary wall. This condition would thus entail the setting back of the extension by 1m from this wall and the envisaged pathway would ensure that the passage remains linked to the retained rear garden beyond.

1.3 I consider that the under passage is a feature of special interest to the protected structure and so it should be retained. The submitted plans show that while the rear steps to this passage would be retained, the accompanying low rise, granite stone, side wall would be removed and the steps themselves would be reset in an offset position to facilitate the insertion of the insulated stud wall that would

be attached to the granite stone boundary wall. I consider that the accompanying side wall to these steps is integral to their design and hence their character and that the presence of the exposed boundary wall is important, too, as it is continuous with the side wall to the under passage. Thus, the proposals on the submitted plans would erode the character of the rear steps to an unacceptable extent.

- 1.4 I acknowledge the applicant's case that the internalisation of the steps would protect them from the weather. However, they were constructed to be an exposed feature and so I do not consider that there is any imperative to afford to them such protection.
- 1.5 I also acknowledge the applicant's quest to retain the passage in active use by its incorporation into the proposed extension and her concern to avoid a scenario wherein a damp courtyard is provided, which would attract little use. I am not as pessimistic about the use of the under passage with continuing externalised rear steps as the applicant appears to be. If the new elevation to the courtyard was glazed and contained a door to the kitchen, then, as the passage would be the route to the same, its continued use could reasonably be anticipated. While the courtyard would, admittedly, receive a limited amount of light, its utility next to a door to the kitchen could be significant.
- 1.6 The planning authority considers that the under passage should continue to serve an external route to the retained rear garden. I am unpersuaded as to the necessity of this requirement. In this respect, I observed during my site visit that the historic pattern of usage that appears to be associated with the use of this passage has already been eroded with the blocking up of a pedestrian opening in the party wall with the adjoining property, No. 59, to the north. I note, too, from the applicant's grounds of appeal that there may be the opportunity, subject to obtaining planning permission, to provide a pedestrian access to the retained rear garden from a laneway that abuts the southern boundary wall to the appeal site.
- 1.7 In my view, if the special interest associated with the under passage is to be respected, then its rear steps need to be retained as they are now. However, I do not consider that the passage needs to connect with the envisaged pathway to the retained rear garden. I, therefore, do not accept that the reduction in the width of the proposed rear extension cited under condition 2(a)(iii) would be necessary. Furthermore, in this respect, I note the recent cases cited by the applicant that provide precedents for the construction of comparable, full width, rear, domestic extensions to protected structures elsewhere in Rathgar and Rathmines.



- 1.8 To ensure the usability of the courtyard that would be needed to accompany the rear steps to the under passage, I consider that a minimum clearance of 1m from the exposed end of the low rise wall would be required. Thus, the new kitchen elevation should be sited a minimum of 1m to the west of this wall.
- 1.9 In conjunction with the provision of the courtyard, the rear elevation of the main body of the dwelling house would remain exposed. Under the submitted plans the ground floor window in this elevation would be widened and deepened to form a pair of French windows. While the ensuing loss of alignment and proportions with the first floor window above would not have been evident under these plans, with the courtyard insitu such changes would be visible. I, therefore, consider that the width of this opening should not be increased. A single glazed door could thus be fitted in the deepened opening and steps inserted in manner consistent with the retention of the aforementioned side wall. The opportunity for connectivity between the rear sitting room and the kitchen via the courtyard would thus be secured.
- 1.10 I, therefore, conclude that condition 2(a)(iii) should be omitted and that condition 2(a)(i) and (ii) should be reworded to reflect my assessment.

**(ii) Condition 2(b)**

- 2.1 The applicant's grounds of appeal do not refer to condition 2(b). This condition was prompted by the City Council's Conservation Officer who considered that the insertion of two rooflights next to the addition of a dormer window in the main, rear, roof plane would be excessive. She therefore advised that these rooflights should be omitted. I concur with this view.
- 2.2 The Conservation Officer also advised that a stained glass laylight above the existing stairwell should be reused by being relocated to below the proposed new rooflight over the stairwell. I concur with the quest to ensure that this laylight is reused. However, it is not self-evident from the submitted plans that the relocation thus identified would be feasible and so I consider that this condition should be reworded to allow an alternative location to be agreed upon.
- 2.3 I, therefore, conclude that condition 2(b) should be reworded to reflect my assessment.

**Recommendation**

In the light of my assessment, I recommend that the planning authority be directed to alter condition 2 imposed on its draft permission granted to application reg. no. 3033/14, as follows:

2. The development shall be revised as follows:

(a) The ground floor rear extension shall be revised so that external access to the under passage is retained as follows:

(i) An open space to the rear of the rear sitting room in the main body of the dwelling house shall be provided. This space shall retain the existing clearance distance between the southern elevation of the three storey return and the wall along the southern boundary to the site and it shall have a minimum depth that combines the existing length of the northern side wall to the steps to the under passage plus an additional 1 metre.

(ii) The steps to the under passage and the accompanying northern side wall shall be retained insitu.

(iii) The window opening to the rear sitting room in the main body of the dwelling house shall not be widened. It shall be deepened to provide an opening for a single glazed door. Accompanying steps from this door to the aforementioned open space shall be provided.

(b) The two rooflights in the rear roof plane over the attic room shall be omitted. The stained glass laylight shall be removed for reused in a location, to be agreed with the planning authority, elsewhere within the extended dwelling house.

Development shall not commence until revised plans, drawings and particulars showing the above revisions have been submitted to, and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the recommencement of occupation of the extended dwelling house.

Reason: In the interest of protecting the special character of the protected structure.

## **Reasons and considerations**

It is considered that the reworded condition would ensure that the special interest of the protected structure constituted by the under passage is retained both as a visible and legible feature and one that contributes to the accessibility of the extended dwelling house. This condition would uphold Policy FC30 of the Dublin City Development Plan 2011 – 2017, which undertakes to safeguard protected structures from any works that would cause loss or damage to their special character. It would thereby accord with the proper planning and sustainable development of the area.

Hugh D. Morrison

Inspector

8<sup>th</sup> January 2015