



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306016-19

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<b>Development</b>	Elevational alterations and single storey extension to the side and rear of an existing dwelling.
<b>Location</b>	1 St. John's Mews, Douglas Street, Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	19/38689
<b>Applicant(s)</b>	Siobhan Keane
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party V. Grant
<b>Appellant(s)</b>	Eileen O'Sullivan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	7 <sup>th</sup> February 2020
<b>Inspector</b>	Elaine Power

## 1.0 Site Location and Description

- 1.1. The subject site is located in St. Johns Mews, which is a cul-de-sac comprising 14 no. dwellings, located off Douglas Street, in Cork city centre. The house is bound to the north and east by the internal access road and footpath and to the south by the rear gardens of properties on Douglas Street. To the west the site is bound by no. 2 St. Johns Mews, which is located at a perpendicular angle to the appeal site.
- 1.2. The appeal site has a stated area of 70sqm and accommodates a 3-storey semi-detached dwelling. The existing house has a gross floor area of 95.1sqm. The rear garden is bound to the north by the rear of no. 2 St. Johns Mews which is approx. 9.5m in height, to the south by a 4.5m high wall and to the west by a 2.3m high wall.
- 1.3. The site is located within the South Parish Architectural Conservation Area and within an Zone of Archaeological Potential.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a single storey extension with a gross floor area of 8.2sqm. The extension would be located to the south (side) and west (rear) of the existing dwelling. The extension has a flat roof with a maximum height of 3.5m and would accommodate a new bathroom and lobby to the rear garden.
- 2.2. It is also proposed to alter the existing elevational treatments. The alterations comprises a new window at first floor level on the eastern (front) elevation to serve a landing area, a new window at ground floor level on the southern (side) elevation to serve the existing kitchen and a new attic level window on the northern (side) elevation.
- 2.3. It is also proposed to remove a portion of an existing wall on the eastern (front) elevation of the appeal site and provide a new pedestrian access gate. The new gate is approx. 0.8m in width and would provide access to a yard area with a gross floor area of approx. 2sqm.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

Permission was granted subject to 6 no. conditions.

**Condition no. 3** required the applicant to inform the City Archaeologist of any archaeological material discovered during the construction phase.

**Condition no. 6(a)** required the new pedestrian access gate to recessed or inward opening only

#### 3.2. **Planning Authority Reports**

##### 3.2.1. **Planning Reports**

The report by the Area Planner raised no concerns regarding the proposed development and recommended that permission be granted subject to standard conditions.

##### 3.2.2. **Other Technical Reports**

**Drainage** Report: No objection subject to conditions

**Archaeology** Report: No objection subject to conditions

**Road Design (Planning)** Report: No objection subject to conditions

#### 3.3. **Prescribed Bodies**

None

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

A third-party submission was received from Eileen O'Sullivan, whose property, no. 2 St. John's Mews adjoins the appeal site. The concerns raised are similar to those in the appeal.

### 4.0 **Planning History**

None

## 5.0 Policy Context

### 5.1. Cork City Development Plan,

The site is located in an area zoned ZO3 - *Inner City Residential Neighbourhood* with the associated landuse objective '*to reinforce the residential character of inner-city residential neighbourhoods, while supporting the provision and retention of local services, and civic and institutional functions*'. Relevant sections of the Plan include Chapter 16, Part D – *Alterations to Existing Dwellings* is relevant and Section 16.72 - Extensions.

The site is located in the South Parish Architectural Conservation Area and within a Zone of Archaeological Potential. The relevant objectives are outlined below:

- Objective 9.9: Value of Archaeological Knowledge
- Objective 9.29: Architectural Conservation Areas
- Objective 9.32: Development in Architectural Conservation Areas
- Objective 9.4: Archaeological Heritage

### 5.2. Natural Heritage Designations

The site is located approx. 2.6 km north west of Cork Harbour SPA 004030 and approx. 9.5 km west of Great Island Channel SAC 001058.

### 5.3. EIA Screening

Having regard to the nature and small scale of the proposed development and the location of the site, it is concluded 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A third-party appeal was submitted by Eileen O’Sullivan whose property, no. 2 St. John’s Mews adjoins the appeal site. The issues raised are summarised below:

- Concerns have been raised regarding the accuracy of the drawings submitted with the application. The northern boundary wall of the proposed extension is a load bearing wall in the appellants house. The drawing submitted indicate that this wall would form part of the extension. The applicant has no entitlement to carry out works to this wall and the appellant has not given her consent to its inclusion in the application.
- The proposed development would have a negative impact on the existing residential amenities and would devalue adjoining properties. A gap should be provided between the appellants house and the proposed extension, to reduce the potential for noise disturbance.
- Due to the foundations of the existing properties in St. John’s Mews a connection to any of the properties would have a negative impact on the structural stability of the existing properties.

### 6.2. Applicant Response

None

### 6.3. Planning Authority Response

No further comments

## 7.0 Assessment

- 7.1. The main concerns in this appeal relate to residential amenity and construction practices. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Residential Amenity
- Construction Practices
- Appropriate Assessment

## 7.2. ***Residential Amenity***

- 7.2.1. It is proposed to construct a single storey extension with a gross floor area of 8.2sqm. The extension would be located to the south (side) and west (rear) of the existing dwelling. It has a flat roof, with a maximum height of 3.5m and would accommodate a new bathroom and lobby to the rear garden. It is also proposed provide a new window at first floor level on the eastern (front) elevation to serve a landing area, a new window at ground floor level on the southern (side) elevation to serve the existing kitchen and a new attic level window on the northern (side) elevation.
- 7.2.2. Concerns have been raised that the proposed development would have a negative impact on the existing residential amenities of the adjoining properties. It is noted that the proposed extension is bound to the north by the southern boundary wall of an existing house (no. 2 St. Johns Mews), which is approx. 9.5m in height. It is bound to the south by an 4.5m high wall. Having regard to the limited height of the extension, the positioning of the proposed windows and the height of the existing boundary walls it is my view that the proposed development would not have a negative impact on the existing residential amenities in terms of overlooking, overshadowing or overbearing impact.
- 7.2.3. Concerns have also been raised the extension would result in noise disturbance for the adjoining property. Having regard to the location of the development within an urban area and the nature of the proposed use. It is my view that the proposed residential use would not result in an unacceptable level of noise disturbance for adjoining neighbours.

## 7.3. ***Construction Practices***

- 7.3.1. Concerns have been raised that the proposed extension incorporates an existing load bearing wall of the adjoining house. The appellant has stated that no consent to the

inclusion of the existing wall has been provided and there are concerns that the extension would have a negative impact on the existing house.

- 7.3.2. A letter on file from the applicants engineer, submitted as part of the third-party objection to the planning authority, refers to the boundary wall as a common wall between the houses. Drawings submitted within the application indicate that the existing boundary wall would be drylined and would form the northern boundary of the extension.
- 7.3.3. Section 5.13 of the Development Management Guidelines for Planning Authorities advise that the planning system is not designed as a mechanism for resolving disputes about rights over land and that these are ultimately matters for resolution in the Courts.
- 7.3.4. In my view the onus is on the applicant and their contractors, to ensure that the construction phase is undertaken in a safe manner, in accordance with their obligations under separate codes, and I further note that the granting of permission would not relieve the applicants of their responsibilities in this regard. It should be noted that under section 34(13) of the Planning and Development Act 2000, as amended, a person shall not be entitled solely by reason of a permission to carry out any development.
- 7.3.5. In conclusion, I consider that the disputes between the parties in relation to matters of structural integrity, construction methods and resultant health and safety risks that may or may not arise are ultimately matters that would be dealt with more appropriately outside of the planning appeal process.

#### 7.4. ***Appropriate Assessment***

- 7.4.1. Having regard to the nature and small scale of the proposed development within a serviced urban area and the distance from 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 a European site.

## 8.0 Recommendation

I recommend that permission be granted subject to conditions.

## 9.0 Reasons and Considerations

Having regard to the sites zoning objective, the provisions of the Cork City Development Plan 2015-2021, the existing pattern of development in the area and the nature and small scale of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the amenities of the area. 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 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details 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.

**Reason:** In the interest of clarity

2. The proposed pedestrian access gate to the rear garden area shall not be outward opening.

**Reason:** In the interest of pedestrian safety

3. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall: -

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development,
- (b) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

4. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

5. The applicant shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

6. 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 where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity

7. 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 noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity

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Elaine Power

Planning Inspector

4<sup>th</sup> March 2020