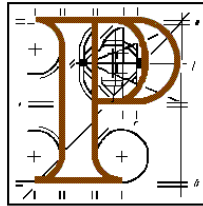


An Bord Pleanála



Inspectors Report

Development: Modifications to parent permission 2785/13 to provide third floor with one bed apartment including balcony, modification to existing and internal modifications to permitted 1st and 2nd floor at 22 Little Mary Street, Dublin 7.

Planning Application

Planning Authority: Dublin City Council
Planning Authority Reg. Ref. 3285/15
Applicant: Ilan Kabariti
Type of Application: Permission
Planning Authority Decision: Split

Planning Appeal

Appellant(s): Ilan Kabariti

Observers: None

Type of Appeal: First Party
Date of Site Inspection: 11/01/16

Inspector: Gillian Kane

1.0.0 SITE LOCATION AND DESCRIPTION

1.0.1 Little Mary Street is located at the edge of the City Markets area on the northern side of the city centre. The subject site is located on the southern side of Little Mary Street, to the west of Capel Street. The subject site comprises a 3-storey over basement red brick terrace building dating to the C19th. The ground floor is currently vacant, with the two upper floor levels are in residential use and are divided into 4 no. bedsits. Access to the upper floor level is by way of a separate door on the principal façade. The existing shopfront treatment is non-original and it incorporates the door to the upper floor levels.

1.0.2 The building comprises the third structure in a terrace of three very similar structures, all of which are protected structures. To the rear / north of the building is a double height garage which provides car parking and access to a building which wraps around between no. 23 Little Mary Street and no. 133 Capel Street. To the west of the site, the building has been development for residential use with a four storey extension to the rear and an additional floor at roof level.

1.0.3 Photographs and maps in Appendix 1 serve to describe the site and location in further detail.

2.0.0 PROPOSED DEVELOPMENT

2.0.1 Permission was sought for works to a protected structure comprising modifications to an existing permission (reg. ref. 2785/13) to comprise an additional floor – 4th storey - with a one bedroom apartment of 56sq.m. the development includes internal modifications to the existing roof, first and second floors – reduction of permitted apartment to 63sq.m to accommodate stairs to new floor.

2.0.2 Total site area is 128.m. with 56sq.m. new floor area proposed, and 268.m. to be retained. Proposed new floor area total 324.m. The application form states that this results in a plot ratio of 2.5 and a site coverage of 100%.

2.0.3 The application was accompanied by the following:

- **Conservation Assessment**, the main points of which can be summarised as: Roof maintains original double hip, poor condition of roof valley evident. Original material at ground floor has all been removed. Stair is original but in poor

condition. Little original features evident on first and second floors. Likely that protected status relates to exterior. No evidence of original shop front remains.

- **Cover Letter:** Proposal provides for retention of part of the original roof, proposed additional unit will not be visible due to set back. Proposed alterations to permitted development is in compliance with national and local policy.

2.1.0 Internal Reports on File following submission of application

2.1.1 **Drainage Division Engineering Dept:** No objection subject to developer complying with the Dublin Regional Code of Practice for Drainage Works. The developer shall comply with all the drainage conditions of the previous grant of permission ref. no. 2785/13.

2.1.2 **Conservation Officer:** Refusal recommended. Building is a good example of small scale merchant Georgian building. Form, scale and functional spatial arrangement are still intact. Minor repairs could result in a substantial contribution to the streetscape. Previous conservation reports have recommended refusing the addition of a fourth floor as it does not adhere to best practice. These concerns apply to the subject development.

2.1.3 **Planning Report:** If stair is removed from the calculation, the proposed apartment is 50sq.m. which is below the minimum standard of the development plan. Section 15.7 of the development plan allows for flexibility in development management standards for protected structures where the long term viability of the structure is ensured. Proposed balcony of 5sq.m. is below the required 10-16sq.m. set out in the development plan. The proposed additional floor represents over-intensification of the site and noting the recommendation of the conservation officer permission should be refused for this element of the proposed development. Proposed modifications at first floor are acceptable. Split decision recommended.

3.0.0 PLANNING AUTHORITY DECISION

3.0.1 By order dated 09/09/2015 a split decision was issued as follows:
GRANT permission for the internal modification of the first floor, subject to 4 no. conditions. Condition no. 4 stated that the life of the permission shall expire the date of the parent permission 2785/13.

REFUSE permission for the additional 3rd floor apartment with east facing balcony, for the following reasons:

1: The proposed development, by virtue of the provision of a third floor apartment unit, would represent over development of the site

and would have a detrimental impact on the character of the protected structure. The proposal would alter the character of the protected structure and that of its context, does not adhere to best conservation practices and would set an adverse precedent for similar substandard developments. This would be contrary to policies FC26, FC27 and FC35 of the Dublin City Development Plan 2011 – 2017 and to the proper planning and sustainable development of the area.

2: The proposed development by virtue of the provision of a 1 bed apartment of substandard size with inadequate private open space would fail to meet the standards contained in section 17.9.1 of the Dublin City Development Plan 2011-2017 and consequently would be contrary to the provisions of the Dublin City Development Plan 2011-2017 and to the proper planning and sustainable development of the area.

3: The proposed development, by virtue of the loss of the roof terrace and storage and the provision of substandard bathroom facilities serving the second floor unit under reg. ref. 2785/13 would have a negative impact on the amenity of said unit and would result in a substandard provision of private open space for same having regard to the requirements of section 17.9.1 of the development plan. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

4.0.0 PLANNING HISTORY

4.0.1 **DCC Reg. Ref 2785/13:** Planning permission sought for 3 no. apartments over ground floor retails. Proposal was modified following a request for further information and the proposed third apartment at 4th floor level was omitted. Permission granted for 2 no. residential units over retail ground floor.

4.0.2 **PL29N.243057:** Appeal against financial contribution attached to above decision.

5.0.0 NATIONAL POLICY

5.1.0 Architectural Heritage Protection – Guidelines for Planning Authorities

5.1.1 This guidance, which is a material consideration in the determination of applications, sets out comprehensive guidance upon development in conservation areas and affecting protected structures. It promotes the principle of minimum intervention (Para.7.7.1) and emphasises that additions and other interventions

to protected structures should be sympathetic to the earlier structure and of quality in themselves and should not cause damage to the fabric of the structure, whether in the long or short term (7.2.2).

5.1.2 Section 6.8.1 of the Guidelines outlines best practice in relation to extending Protected Structures. It is recommended that extensions to protected structures should involve the smallest possible loss of historic fabric and ensure that important features are not obscured, damaged or destroyed. The guidelines require Planning Authorities to be mindful of the setting of a protected structure within a terrace and that rear elevations can sometimes contain fabric that relates to the history of the structure. The guidelines state that the design of symmetrical buildings or elevations should not be compromised by additions that would disrupt the symmetry or be detrimental to the design of the protected structure.

5.1.3 Section 9.2.7 of the Guidelines refers to intervention at roof level, stating that roofs of protected structures should retain their original form and profile and not be radically altered, for example, to provide extra accommodation in the form of a mansard roof. The insertions of lift-motor rooms, plant rooms and dormers can also materially alter the character and profile of a historic roof and should be carefully scrutinised.

5.2.0 Sustainable Urban Housing Design Standards for New Apartments, Guidelines for Planning Authorities

5.2.1 In December 2015 the new Guidelines were published. They provide for the following development management standards:

5.2.2 Minimum Apartment Floor Areas

1 bed: 45sq.m.

2 bed: 73sq.m.

3 bed: 90sq.m.

Studio: 40sq.m.

5.2.3 Internal Storage

1 bed: 3sq.m.

2 bed: 6sq.m.

3 bed: 9sq.m.

Studio: 3sq.m.

5.2.4 Private Amenity Space

Minimum depth of 1.5m

1 bed: 5sq.m.
2 bed: 7sq.m.
3 bed: 9sq.m.
Studio: 4sq.m.

6.0.0 LOCAL POLICY

6.0.1 DUBLIN CITY DEVELOPMENT PLAN 2011 - 2017

6.0.2 The subject site is zoned "Z5" in the Dublin city development plan, with the stated objective *"to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity"* ('Z5' - City Centre).

6.0.3 **Section 15.7** of the development plan provides for the relaxation of zoning objectives for protected structures in certain cases, to ensure the long term viability of the structure. The plan states that "it may be appropriate not to stringently apply city-wide zoning restrictions, including site development standards, provided the protected structure is being restored to the highest standard, the special interest, character and setting of the building is protected and the use and development is consistent with conservation policies and the proper planning and sustainable development of the area".

6.0.4 Section 17.9.1 Residential Quality Standards:

Minimum Floor Areas: 1 bedroom unit: 55sq.m, 2 bedroom unit: a range from 80sq.m to 90sq.m and 3 bedroom unit or equivalent: 100sq.m

Private Open Space: Minimum size for Balconies: 1 bedroom unit: 6sq.m with 2m depth, 2 bedroom unit: 8sq.m with 2.5m depth and 3 bedroom unit or equivalent: 10sq.m with 2.5m depth.

Minimum Storage Requirements: One bedroom unit 3sq.m, Two bedroom unit 6sq.m, Three bedroom unit 9sq.m

6.0.5 **Section 17.9.8 Extensions and Alterations to Dwellings.** The design of residential extensions should have regard to the amenities of adjoining properties and in particular the need for light and privacy. In addition, the form of the existing building should be followed as closely as possible, and the development should integrate with the existing building through the use of similar finishes and windows. Applications for planning permission to

extend dwellings will be granted provided that the proposed development:

- Has no adverse impact on the scale and character of the dwelling.
- Has no unacceptable effect on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy and access to daylight and sunlight.

6.0.6 **Appendix 10** of the development plan sets out the relevant policies and standards for **Protected Structures and Buildings in Conservation Areas**. The subject dwelling is listed on the Record of Protected Structures: RPS (ref. no. 5063, House and Shop). **Appendix 25** outlines **Guidelines for Residential extensions**.

6.0.7 Section 7.2.5 of the development plan outlines the Council's policies on protected structures, of relevance to the subject development are:

FC26 To protect and conserve the city's cultural and built heritage; sustaining its unique significance, fabric and character to ensure its survival for future generations

FC27 To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city

FC28 To continue to protect our built heritage, and development proposals affecting the built heritage will be assessed in accordance with the DoEHLG document "Architectural Heritage Protection Guidelines for Planning Authorities, 2004"

FC35 To require the protection of the special interest and character of protected structures while carrying out interventions to comply with requirements of the Building Regulations and the necessity to provide universal access to buildings

7.0.0 **GROUNDS OF APPEAL**

7.0.1 An agent for the Applicant has submitted a first party appeal against the refusal of part of the proposed development. The agent notes that the appeal does not refer to the grant of permission for the first floor internal modifications. Drawing no 1204/A/04A with revisions to proposed third floor submitted. The grounds of the appeal can be summarised as follows:

- 7.0.2 It is submitted that the proposed development is not overdevelopment of the site as the building footprint will not be increased and the plot ratio at 2.5 is at the lower end of the 2.5-3 development plan guidelines range.
- 7.0.3 The impact of the proposed development on the protected structure will be modest. The Conservation Officers report on file refers to the development proposed under reg. reg. 2785/13 and not the proposed development. The current development does not propose the removal of all chimneys, does not propose the removal of the entire roof but does propose a set back from the front elevation. The proposed additional floor will not be visible from the northern side of Little Mary Street. The special character of the front elevation, noted by the Conservation Officer will be retained in the current proposal. The rear of the building which has undergone significant alterations is of little architectural merit. It is submitted that the Conservation Officers report that they do not support of the original roof structure is contrary to the permitted development which provides for the removal of a portion of the rear roof to provide a terrace and storage facilities. It is submitted that the Planning Authority were previously satisfied with the principle of intervention at roof level. This principle is followed in the current application which is facilitated behind the front roof ridge line and with negligible impact to the protected front elevation.
- 7.0.4 It is submitted that the proposed development is not contrary to policies FC26, FC27 or F35 of the development plan. The bespoke design of the third floor protects the special interest and character of the building and the building will remain as before.
- 7.0.5 It is submitted that the proposed development complies with best conservation practice as set out in section 17.10.1 of the development plan as follows: The proposed development protects and improves the building's relationship with the street, will retain existing chimneys, has carefully considered works and will not impact on the streetscape. The proposed development will bring substantial benefits in providing additional accommodation and will maintain the ground floor retail use.
- 7.0.6 With regard to the context of the area and the precedent to be set by the proposed development, it is submitted that the area does not involve a pristine or uniform landscape. The area has a range of architectural styles and qualities. The modern roof interventions at no.s 24 and 26 are clearly visible. The proposed development will

be set back from the building line and is lower than the adjoining roof at no. 21. It is submitted that precedent for development has already been set on the street.

7.0.7 The proposed development complies with the core strategy of the development plan as it provides residential development within the city centre, consolidates the city centre (section 8.3) and will facilitate an increase in city centre population as espoused in the Sustainable Residential Development in Urban Areas Guidelines of 2009. The proposal complies with policy FC27 of the development plan as it seeks to preserve the built heritage of the city.

7.0.8 Under the revised plan, the proposed apartment is 55.3sq.m. which complies with the development plan. A 1.2sq.m. storage unit is available inside the entrance door on the second floor. This storage space, the entrance hall and stairwell are located within the unit and form part of the floor area and should be calculated in the overall floor area. The revised plan proposes a 6sq.m. balcony which is within the development plan standards. The proposed unit provides for a single bedspace in a room of 10.9sq.m. which complies with national standards. One person households account for 29% of the north city electoral division and 25% of households in the city and suburbs according to the 2011 census.

7.0.9 The revised proposal removes the extra roof terrace and storage facilities but the retained private open space (10sq.m.) is in excess of the requirements of section 17.9.1 of the plan. A 4.2sq.m. storage space is proposed for the one bedroom unit which complies with the development plan. The revised proposal also increases the bathroom for the second floor apartment to 4sq.m. to address the third reason for refusal.

7.0.10 The Board is requested to grant permission.

8.0.0 OBSERVATIONS

8.0.1 An Agent for the owners of **23 Little Mary Street** submit that the decision of the City Council should stand. It is suggested that the City Council intended to omit to the second floor roof terrace and the drawings of reg. ref. 2785/13 plans submitted with the current appeal cannot be relied on as the views of the Planning Authority. It is noted that the Council's third reason for refusal refers to the now proposed omission of the roof terrace.

8.0.2 It is submitted that the proposed development breaches national guidance on architectural heritage as the original form and profile of the roof is not retained.

8.0.3 It is submitted that the proposed development represents excessive intervention. The proposed development at third floor will diminish the natural light entering no. 23. The Board is requested to uphold the decision of the City Council.

9.0.0 RESPONSES

9.1.0 Planning Authority Response

9.1.1 The planners report satisfactorily addresses the concerns of the Council. The overdevelopment of the site refers to the further intensification of use that would result from an additional residential unit.

9.2.0 First Party Response to Third Party Observation

9.2.1 New issues raised in the response can be summarised as follows:
The current proposal relies on the Planning Authority's assessment of the original 2013 proposal, to which the observers did not object. The proposed development of a third floor will have the least impact on no. 23. It is noted that no. 23 was redeveloped with no. 133 Capel Street (reg. ref. 3097/98) with no. 23 providing the entrance to the development. To the rear of no. 23 is a ground floor corridor and a 4 storey lift shaft.

9.2.2 It is submitted that the Observation refers to the previous 3rd floor proposal which was omitted. The Planning Authority were satisfied with the proposal and the same result is achieved in the current proposal. Chapter 9 of the national guidelines concerns intervention that materially alters the character and profile of a historic roof, with mansard roofs indicated as being particularly unsympathetic. Development of this type can be seen at the Capel street end of Little Mary Street. The proposed design which retains the original roof profile and form presented to the street is in keeping with architectural heritage guidelines.

9.2.3 The concerns of the Planning Authority have been addressed and the proposed development is not excessive. The proposed modest extension will not impact the natural light available to the adjoining property.

10.0.0 ASSESSMENT

10.0.1 On reading of all documentation submitted with the appeal, I consider the issues to be:

- Principle of the development
- Impact on Architectural Character
- Impact on Adjoining Properties
- Appropriate Assessment

10.1.0 Principle of the Development

10.1.1 The proposed development refers to the extension of a protected structure located in an area zoned to consolidate and facilitate the development of this city centre area. Residential use is permitted in principle in such areas.

10.1.2 Section 17.9.8 of the development plan refers to extensions and alterations of dwellings. It is stated that proposed extensions should maintain the visual amenities and architectural character of the existing building and surrounding properties in the area through the use of similar finishes and windows. The design should follow the form of the existing building without compromising the residential amenities of adjoining properties in terms of privacy and access to daylight and sunlight.

10.1.3 It is considered that the proposed additional is acceptable in principle subject to all other planning considerations being satisfactorily addressed.

10.2.0 Impact on Architectural Character

10.2.1 As noted above, section 17.10.1 of the development plan outlines the Council's policies for works to protected structures, stating that consideration will be given to:

- The importance of the building, its intrinsic special architectural and / or historic interest and rarity
- Particular physical features of the building, external and internal,
- The extent and impact of intervention and alterations proposed and that which have already taken place, excluding any unauthorised development
- Setting an contribution to streetscape
- Extent to which the proposed works would bring substantial benefits to the community

- 10.2.2 The Architectural Heritage Guidelines for Planning Authorities states that it is often necessary to permit extensions to protected structures in order to make them fit for modern living (section 6.8.1 refers). The guidelines recommend that new work should involve the smallest possible loss of historic fabric and ensure that important features are not obscured, damaged or destroyed. In general, best practice is that principal elevations – not just the façade – should not be adversely affected by new extensions.
- 10.2.3 I note the comments of the DCC Conservation Officer that intervention at roof level could not be supported as it would alter the character and context of the protected structure. In referring to the proposal to alter the roof in the previous planning application, the CO noted that removal of an original roof structure could not be supported and that notwithstanding alterations to the roof, it retains its original form. The applicant notes that the current proposal differs from that objected to previously in that it retains the chimney breasts in their entirety, the front half of the roof is retained and so the front elevation is retained intact.
- 10.2.4 I note the concerns of the observer that the Council intended to omit the roof terrace for the second floor unit but did not attach a condition requiring same. The observer surmises that this shows that the Council sought to protect the roof profile of the building. No such condition was attached however, so conjecture as to the possible intentions of the Council is not relevant. For the record, I share the concern of the Conservation Officer and the Planning Officer and consider that the permitted roof interventions resulting from the storage and roof terrace at the third floor have an unacceptable impact on the roof profile of the building. The blank elevation of the storage area represents an inappropriate addition to the original roof profile and it is considered that it seriously detracts from the presentation of the historic roof profile. Should the Board wish to refuse permission for the proposed third floor apartment, they may wish to address this issue.
- 10.2.4 Comparing the impact of currently proposed third floor development on the roof profile with the permitted roof development, I note the proposed front elevation and sections as shown on drawing no. 1204/AI/05A. The proposed development would clearly alter the front elevation of the subject building, yet it is considered that it represents an improvement on the permitted roof under reg. ref. 2785/13. The pitch and ridge of the roof which are currently largely hidden by the parapet are to be retained. The proposed grey metal

roof just behind the ridge reads as a subsidiary element, one which will largely be hidden from the streetscape.

10.2.5 I note that the rear elevation of the subject dwelling retains little of architectural merit, nor does it significantly add to the character of the dwelling. The principal merit of the dwelling is the front façade, which as part of a terrace of similar buildings forms a strong streetscape.

10.2.6 The advice of the Architectural Heritage Guidelines on protecting historic roofs is to avoid providing additional accommodation in the form of a mansard roof (section 9.2.7). It is considered that the benefits gained by increasing density and providing additional residential development in the city centre outweigh the lesser injury of an alteration of the secondary section of an original roof profile. The proposed development is in compliance with the section 17.10.1 of the development plan which requires the benefits of a development to the community to be considered. Combined with the improvement to the roof profile over that currently permitted, it is considered that the proposed third floor development is in compliance with architectural heritage guidelines on roofs and is in compliance with the policies of the development plan.

10.3.0 Impact on Adjoining Properties

10.3.1 With regard to the impact of the proposed development on the reception area of the adjoining building at 23 Little Mary Street / 133 Capel Street, it is considered that the proposed additional third floor will add little or no impact over and above that to be created by the permitted development. The current proposal omits the permitted access to the roof terrace (see drawing no. 1204/AI/04 for reference) which, in terms of impact on the adjoining property at no. 23 would reduce the likelihood of overlooking and overshadowing.

10.3.0 Development Management Standards

10.3.1 As noted above, new development management standards for apartments were introduced in December 2015. The proposed additional apartment and amended second floor apartment as shown on drawing no. 1204/A/04A comply with the minimum requirements for storage space, floor area, and private open space.

10.4.0 Appropriate Assessment

10.4.1 Having regard to the nature and scale of the proposed development and / or the nature of the receiving environment, and /

or proximity to the nearest European site, no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

11.0.0 CONCLUSION AND RECOMMENDATION

I have read the submissions on file, visited the site, and have had due regard to the provisions of the Dublin City Development Plan 2011 - 2017, the Architectural Heritage Guidelines for Planning Authorities, the planning history on the subject and adjoining sites and all other matters arising. It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with principles of best practice on conservation as set out in the national guidelines on conservation 'Architectural Heritage Protection - Guidelines for Planning Authorities' published by the Department of the Environment, Heritage and Local Government in December 2004, would not injure the amenities of the area and would be in accordance with the proper planning and sustainable development of the area. I recommend permission be GRANTED subject to the following conditions:

REASONS AND CONSIDERATIONS

12.1.0 Having regard to the zoning objectives for the area and pattern of development in area, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity and would be acceptable in terms of traffic safety, public health and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on the 7th day of October 2015 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. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

3. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay rubble or other debris on adjoining roads during the course of the works.

Reason: In the interest of residential amenity

4. Prior to commencement of development, the developer shall provide for the following:-

(a) The appointment of a conservation expert, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.

(b) The submission of details of all finishes and of all existing original features to be retained and reused where possible, including interior and exterior fittings/features, joinery, fenestration, plasterwork, features (cornices and ceiling mouldings), roofs, staircases including balusters, handrail and skirting boards.

All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the "Architectural Heritage Protection Guidelines for Planning Authorities" (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

Reason: To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

Gillian Kane
Planning Inspector
18/01/16