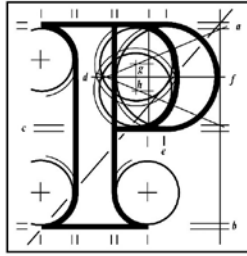


# An Bord Pleanála



## Inspector's Report

**Development:** The demolition of the existing warehouse and the construction of a two storey plus attic over basement three bedroom dwelling set back from Pembroke Lane with a recessed terrace at first floor level on the southern façade, garden area to the front together with a new vehicular entrance from Pembroke Lane and one street car parking space, at 67 Pembroke Lane, Ballsbridge, Dublin 4.

### Application

Planning authority: Dublin City Council  
Planning application reg. no. 3334/15  
Applicant: Mr Michael Holland  
Type of application: Permission  
Planning authority's decision: Grant, subject to 11 conditions

### Appeal

Appellant: The Pembroke Road Association  
Type of appeal: Third party -v- Decision  
Observers: None  
Date of site inspection: 8<sup>th</sup> January 2016  
Inspector: Hugh D. Morrison

## Site

The site is located on the eastern portion of Pembroke Lane, which runs between Raglan Road, to the west, and Pembroke Road, to the north east. This Lane parallels Pembroke Road to the north and it is composed of a mixture of traditional and modern buildings that are ancillary in scale to the more substantial multi-storey buildings on this Road. The former buildings are typically two storeys in height and they either front or one of their side elevations abuts the Lane. The latter buildings are typically of two storeys in height and they are set back from this Lane. The majority of these buildings are dwelling houses.

The site itself is “L” shaped in plan-view and it extends over an area of 297 sq m. At present it accommodates a traditional, two storey, street-fronted building and, to the rear, an adjoining and inter-connected north light building, which comprises a ground floor and a first floor/mezzanine floor. This combined building was last used as a warehouse. It is presently vacant.

The aforementioned building adjoins a stone built one-and-a-half storey dwelling house to the east and a similarly proportioned two storey warehouse to the west. The north western corner and the entire rear elevation of this building abuts the grounds to Nos. 63, 65, and 67 Pembroke Road (protected structures). The former and latter properties of these three are accompanied to the rear by freestanding buildings, which are, variously, three (Caroline Court) and two (No. 67A) storeys in height. These buildings provide residential accommodation.

## Proposal

The proposal would entail the demolition of the existing warehouse (297 sq m) on the site and the construction of a two storey plus attic (324 sq m) over basement (137 sq m), three bedroom, dwelling house (total floor area of 461 sq m (including basement)). This dwelling house would be sited in the rear portion of the site. Forward of it a front garden and patio would be provided and one off-street car parking space. A further patio would be provided with a pond at basement level and a glass bridge would cross above the same at ground floor level to the front door of the dwelling house. At first floor level a recessed terrace with a small projecting balcony element would be constructed.

Extensive glazing would be specified for the southern elevation of the proposed dwelling house, which would overlook Pembroke Lane. The exposed side and rear elevations would be finished in brick, while the remaining front (southern) elevation would be finished in render with limestone surrounds to the front door and terrace/balcony above. The attic/roof level would be of grey/green zinc standing seam roof construction.

The front and part of the western boundaries to the site would be enclosed by means of retained portions of walls from the existing building on the site. These walls are composed of randomly coursed natural stone to which a granite cap would be added. (The former boundary would have timber vehicular and pedestrian gates installed within it). The remaining boundaries would be enclosed either by existing buildings on either side or the proposed dwelling house, which would be built in a position that would abut the same.

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

Draft permission was granted subject to 11 conditions, including the following one:

*8. The development hereby approved shall incorporate the following amendments:*

- (a) The proposed terrace at first floor level shall be fully recessed into the building. The section of c. 1m which projects forward of the front building line shall be omitted so that it does not project forward of the front of the building.*
- (b) The west facing window serving the en suite at second floor level shall be conditioned to be a high level window with a cill height of c. 1.8m.*
- (c) The mansard roof to the rear shall be constructed in accordance with drawing PL-009 Revision A submitted on the 26/08/15.*

*Reason: In the interest of residential amenity.*

### **Technical reports**

- Drainage: No objection, subject to standard conditions.
- Roads and Traffic Planning: No objection, subject to standard conditions.

### **Grounds of appeal**

- The proposed basement would be inappropriate as the site lies within the Dodder delta and so basements can lead to the diversion of small underground streams and thus waterlogged conditions in adjoining properties. (19<sup>th</sup> Century builders avoided basements in Pembroke District for this very reason).
- The basement and attic would cause the proposed building to be out of scale with existing buildings on Pembroke Lane. The appellant would support an alternative proposal, provided it was in scale with its surroundings. In this respect, good conservation practice would allow for a variety of design along the said Lane, provided the scale of existing buildings is respected.

- The character of Pembroke District is being eroded by the insertion of oversized dwelling houses that would be better suited to stand alone sites in the city's mid-20<sup>th</sup> century suburbs.

## Responses

The planning authority has not responded to the above grounds of appeal.

The applicant has responded to these grounds as follows:

Provision of a basement:

- Attention is drawn to the appellant's blanket opposition to basements in the Pembroke District. As this District covers eight city wards, such opposition is considered to be illogical. Instead a site specific approach is advocated.
- Attention is drawn to the following key considerations of the applicant's Engineering Services Report:
  - The site lies in an area that is categorised as having a low flood risk under the Planning System and Flood Risk Guidelines, i.e. Zone C.
  - The site has not been the subject of any recorded historic flood. The nearest such flood was 500m away.
  - A desk top study concludes that there are no preferential ground water flow paths under the site. Furthermore, during the construction phase of the proposed basement, a cut-off wall would be installed to prevent ground water draw-down.
  - The site presently accommodates a warehouse that covers the entirety of the same, whereas the proposed dwelling would be accompanied by an area of soft landscaping, which would enable both control over and a reduction in surface water run-off to occur.
- The City Council's Drainage Division raised no objection to the proposal.
- Attention is drawn to a mews dwelling proposal at 16A Raglan Lane, which would incorporate a substantial basement. This proposal was recently permitted by the Board (application reg. no. 2059/15 and appeal ref. no. PL29S.244688).
- The applicant's right to develop the proposed basement is emphasised, given that it would not materially impact upon the ground conditions or amenities of adjoining properties.

### Scale of the proposed dwelling:

- While the appellant objects to the scale of the proposed dwelling, they do not state why this scale would be objectionable.
- The appropriateness of the said scale is evident from the following considerations:
  - The site lies within an area that is zoned Z2, wherein the indicative plot ratio range is 0.5 – 2.0. The proposal would be well within this range.
  - The proposal would also come within the indicative site coverage of 45%.
  - The applicant’s shadow analysis of the existing warehouse on the site and the proposed dwelling indicates that under the latter there would be a greater quantum of morning sunlight on the facades of the adjacent building at Caroline Court.
  - The design of the proposed dwelling would be represent a highly innovative response to the site within its immediate context. The height of this dwelling would coincide with that of the existing warehouse and it would be in keeping with the adjacent two storey dwelling at 69 Pembroke Lane. Views of the dwelling from the Lane would be restricted to that of its roof level only.
- The CDP aims to “Provide for a variety of housing topologies and tenures which are adaptable, flexible and meet family needs and the changing needs of people throughout their lives.” Thus, the appellant’s in principle opposition to a family size dwelling on the site is at odds with this aim.
- Again, it is the applicant’s right to develop, given that his proposal would not adversely impact upon the amenities of adjoining properties.

### Planning history

#### Site

- Pre-application consultation occurred on 4<sup>th</sup> November 2014.
- 0256/15: A Social Housing Exemption Certificate was granted to shadow the current proposal.

## 65 Pembroke Lane

- 3850/04: Demolition of commercial premises and construction of 2 two storey two-bed terraced dwelling houses with access via Caroline Court: Refused at appeal (PL29S.218779) on the grounds of conservation policy to retain stone coach houses, over development/obtrusiveness, and residential amenity.
- 1693/07: Conversion of commercial premises into a two-bed dwelling house with integral garage + removal of single storey rear extensions and construction of two storey rear extension: Permitted.
- 1348/08: Modifications to the roofline of the above permitted application: Permitted.

## 63 Pembroke Lane

- 3302/04: Demolition of two storey building and construction of three storey over basement dwelling house: Refused at appeal (PL29S.208605) on the grounds of over development and incongruity.
- 2874/06: Demolition of two storey building and construction of two storey over basement dwelling house: Permitted at appeal (PL29S.218779).
- 3212/07: Alterations and additions to previous permission: Permitted at appeal (PL29S.224755).
- 3217/14: Revised house type: Permitted and under construction.

## Development Plan

Under the Dublin City Development Plan 2011 – 2017 (CDP), the site is shown as lying within an area that is zoned Z2, wherein the objective is “To protect and/or improve the amenities of residential conservation areas.” Section 17.9.14 of the CDP relates to mews dwellings and Section 17.9.11 relates to basements.

## Assessment

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

- (i) Land use,
- (ii) Conservation,
- (iii) Scale,

- (iv) Amenity,
- (v) Design
- (vi) Flood risk, and
- (vii) AA.

**(i) Land use**

1.0 The site lies within a residential conservation area (Zone Z2). It accommodates two inter-connected buildings, which, while presently vacant, were last used as a warehouse. Under Z2, warehousing is neither a permissible nor an open for consideration use. Section 15.4 states that, within Z2, uses that are neither permissible nor open for consideration are deemed not to be permissible in principle. Thus, the existing warehouse represents a non-conforming use of the site and so the proposed introduction of a residential use would be welcome from a land use perspective.

**(ii) Conservation**

2.1 The site lies in a residential conservation area (Zone Z2). This site lies to the rear of No. 67 Pembroke Road, which is a protected structure, although it does not appear to be within the curtilage of the same.

2.2 Historic maps of the eastern portion of Pembroke Lane between Raglan Road, to the west, and Pembroke Road, to the north east, indicate that coach houses were sited along the majority of the southern side of this Lane. Many of these coach houses have been demolished in favour of dwelling houses that are set back from the Lane. Nevertheless, a number of these coach houses remain on the southern side, along with several on the northern side of the Lane, including the one on the appeal site.

2.3 Section 17.9.14 of the CDP addresses mews dwellings. Item (a) of this Section states the following:

*Existing stone/brick coach houses located on mews laneways are of national and international importance. Dublin City Council recognises the increasing rarity of these buildings and the need to retain and conserve all the surviving examples, particularly in relation to their form, profile and building line as well as original features remaining...*

The two storey coach house on the site is of rectangular form under a double pitched roof. While it is attached to a more modern north light building to the rear, with a ground floor and a first/mezzanine floor, this building remains distinguishable from its more recent addition. In the light of the strong

commitment to the conservation of coach houses on mews lanes, expressed by item (a), there is a *prima facie* imperative to retain the coach house on the site.

- 2.4 The said coach house is attached on its western side to another coach house at No. 65 Pembroke Lane. This coach house was the subject of an application to demolish it, which was refused at appeal (PL29S.218779) partly on conservation grounds. Subsequent applications to convert this coach house to provide a dwelling house were permitted. However, they have not been implemented.
- 2.5 The site to the west of No. 65, at No. 63 Pembroke Lane, has been cleared and a dwelling house is presently under construction. The planning history of this site indicates that there was formerly a two storey mews dwelling house to the front with single and two storey extensions to the rear. While permission to redevelop was refused at appeal (PL29S208605) for a three storey over basement dwelling house on the grounds of over development, a subsequent application for a two storey over basement dwelling house was permitted and, under a revised house type permission for a partly street-fronted, two storey, mews dwelling house, construction on site is proceeding.
- 2.6 The subject coach house on the appeal site is attached to a stone built one-and-a-half storey dwelling house to the east. At a short remove beyond this dwelling house, there are two further examples of coach houses on the northern side of Pembroke Lane, while on the southern side there are several more examples.
- 2.7 Clearly, the loss of historic coach houses from Pembroke Lane has eroded the greater contribution that such houses would previously have made to the streetscape and character of this Lane. The pattern of development now comprises a mixture of street-fronted coach houses and more recent dwelling houses in setback positions. Yet within this pattern, the western end of the portion of Pembroke Lane in question is distinguishable, due to the cluster of coach houses that exists and other existing and proposed mews dwelling houses, which would abut this Lane, along with a particularly high wall opposite the appeal site that contributes to the overall sense of enclosure. Thus, there is a rationale “on the ground” for continuing to apply the aforementioned item (a). Furthermore, not to do so would establish an adverse precedent for the on-going demolition of coach houses, most clearly in the case of No. 65, the retention of which has previously been insisted upon. The logic of such insistence would be undermined by the current proposal.
- 2.8 I, therefore, conclude that the proposed demolition of the coach house on the site would contravene the advice on mews dwellings set out in the CDP, which favours the conservation of the same, and it would remove a coach house from a part of Pembroke Lane, wherein street-fronted buildings and structures



predominate, thereby eroding its character and establishing an adverse precedent for the continuation of such erosion.

### **(iii) Scale**

- 3.1 The proposed dwelling house would comprise two storeys and an attic floor above ground level and a basement below ground level. The attic floor would be accommodated in a mansard roof with a maximum height of 12.45m ASL. This height would coincide with the higher of the two existing north light roof ridgelines and as such it would be virtually that of the eaves level of 12.57m ASL in the adjacent three storey apartment building, known as Caroline Court, which lies to the rear of No. 63 Pembroke Road. To the north of the appeal site lies No. 67A Pembroke Road, a two storey residential building with a ridge height of 11.02m ASL. (The frontage buildings onto Pembroke Road at Nos. 63, 65, and 67 are all significantly higher than either Caroline Court or No. 67A Pembroke Road).
- 3.2 The appellant expresses concern that the scale of the proposed dwelling house would be excessive and that the size of dwelling house sought would be more appropriately developed in Dublin's mid-20<sup>th</sup> century suburbs.
- 3.3 The applicant has responded to this concern by drawing attention to the plot ratio and the site coverage factor that the proposed dwelling house would exhibit, which at 1.55 and 42%, respectively, would be within the ranges cited in the CDP for residential conservation areas. They also draw attention to the site's immediate context and how the proposed height would coincide with the existing height and be compatible with adjacent heights. Furthermore, views of the proposed dwelling house from Pembroke Lane would be limited to that of the roofscape, due to a combination of its set back position and the proposed 2.85m high front boundary wall to the site.
- 3.4 Elsewhere along the northern side of Pembroke Lane there are examples of development in set back positions, for example, a pair of two storey dwelling houses at Nos. 73A and 73B Pembroke Road and a substantial five floor extension to the rear of No. 75 Pembroke Road, known as Pembroke Court. Thus, in the light of these examples, and those of the more immediate Caroline Court and No. 67A Pembroke Road, there is precedence for multi-storey development to the rear of the frontage buildings onto Pembroke Road.
- 3.5 During my site visit, I observed that the northern elevation of the existing north light building on the appeal site is visible through deciduous trees from Raglan Road. The profile of this elevation would be replaced by that of the proposed dwelling house, which would be similarly visible. As this dwelling house would be of greater size and mass when viewed from this perspective, an increase in visual

impact would arise. However, this would continue to be mitigated by the seasonal variations in the screening afforded by the aforementioned trees.

3.6 I conclude that the proposed dwelling house would not appear out of scale within its surrounding built environment.

#### **(iv) Amenity**

4.1 A comparison of the existing building on and the proposed building for the appeal site indicates that, while the former extends over the entire site, the latter would be sited on the rear portion of this site and, while it would be no higher, this building would be of greater size and mass across this rear portion.

4.2 Caroline Court lies in a position immediately to the north west of the appeal site. This building comprises three storeys of apartments, which are served by habitable room openings in its southern and eastern elevations. Changes in the overshadowing of this building that would result from the redevelopment of the appeal site have been tracked by a shadow analysis submitted by the applicant. This analysis shows that overshadowing would increase slightly in the earlier and middle months of the year in the mornings, while in the mornings towards the end of the year, it would ease slightly. Overall, a slight net increase in overshadowing would arise. However, I do not consider that this would be so pronounced as to warrant objection.

4.3 The majority of the glazing to the proposed dwelling house above ground level would be in the front (south facing) elevation. However, a short west facing elevation would contain corner windows to a ground floor kitchen/dining room, first floor sitting room, and second floor en suite. Views from the first floor window would overlook the grounds of Caroline Court to the west. Forward of this window would be a balcony that would be continuous with a recessed terrace. Views from the side of this balcony would be similar to those from the first floor window. Under condition 2(a) of the planning authority's draft permission, the latter is addressed but not the former, by requiring the balcony's omission. I consider that, in the event that the Board is minded to grant permission, a condition requiring the specification of a privacy screen to the western side of the said balcony would be sufficient to negate overlooking from the same and to mitigate overlooking from the first floor window.

4.4 I conclude that the proposed dwelling house would be compatible with amenities of the area, provided a privacy screen is fitted to the western side of the proposed first floor balcony.

## **(v) Design**

- 5.1 The design of the proposed dwelling house would result in a built form that would be of a similar scale to the existing north light building on the site, but, due to its brick finish and grey/green zinc standing seam roof cladding, more attractive appearance.
- 5.2 From the perspective of future occupiers, the said design would capitalise upon the southerly aspect available to the principal elevation and so habitable rooms would be well lit. They would also be of spacious dimensions.
- 5.3 The proposed dwelling house would be served by a front garden and patio at ground floor level, a patio and ornamental pond at basement level and a combined recessed terrace and balcony at first floor level. Accordingly, the quantity and quality of these spaces in total would be satisfactory.
- 5.4 The proposed dwelling house would also be served by one-off street car parking space, which would represent an appropriate level of provision for the locality in question.
- 5.5 The design of the proposed dwelling house would afford an acceptable standard of amenity to future occupiers.

## **(vi) Flood risk**

- 6.1 The proposed dwelling house would incorporate a basement, which would have a slightly larger footprint than that of the remainder of this dwelling house and which would be served/accompanied by an adjoining patio and ornamental pond. The appellant has expressed concern that the provision of these items would depart from the traditional pattern of building in Pembroke District, which avoided the provision of basements out of a concern that they might lead to the diversion of small underground streams and the resultant waterlogging of adjoining properties.
- 6.2 The applicant has addressed the risk of flooding in the submitted Engineering Services Report, which specifically addresses the appellant's concern by referring to a publication by Clair L Sweeney, entitled "The Rivers of Dublin", which was published by Dublin Corporation in 1991. This publication traces, amongst other rivers, the course of the River Swan and its tributaries, one of which passes from Ranelagh to Ballsbridge. The detailed description of the route of this tributary includes the following relevant extract:

*From Burlington Road it followed on to near the junction of Baggot Street and Waterloo Road and then it passed along the front gardens of the Pembroke Road, south side, houses – very close to the entrance steps. The stream crossed Raglan*

*Road and continued along the garden to pass over into the main parent course at Lansdowne Road west end junction.*

The applicant expresses confidence that, in the light of this description, there are no preferential groundwater flow paths under the appeal site. The applicant's report also undertakes to construct a cut-off-wall, which would have the effect of preventing ground water draw down during the construction of the basement.

- 6.3 I consider that in the absence of evidence to the contrary, the detailed description set out in the aforementioned publication does support the confidence expressed by the applicant.
- 6.4 Elsewhere in the said Report, the wider issue of flood risk is discussed. Under the map entitled "Present Day Dodder", the Dodder Catchment Flood Risk Assessment and Management Study shows the appeal site as lying partly within an area where it is estimated that within any year there would be a 1 in 1000 year chance of a flood event. By way of precaution, the site would be laid out to provide the proposed basement over the rear portion, while the proposed garden and car parking space would be laid out over the front portion at a level similar to that of the adjacent Lane, the carriageway to which falls slightly in an eastwards direction.
- 6.5 I consider that the aforementioned layout of the site would be appropriate and that the slight flood risk identified could be mitigated by the specification of a lip to each of the vehicular and pedestrian entrances from the Lane. If the board is minded to grant permission, then such specification could be conditioned.
- 6.6 I conclude that there is no evidence that the proposed basement would lead to the waterlogging of adjoining properties and that the slight flood risk affecting the site could be satisfactorily mitigated.

**(vii) AA**

- 4.1 The current proposal is for the redevelopment of a site, which is connected to existing mains services. This site does not lie within a Natura 2000 site and I am not aware of any source/pathway/receptor route between it and the nearest such sites in Dublin Bay. Accordingly, I do not consider that the use in question would have any significant effects upon the Conservation Objectives of the said sites.
- 4.2 Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and proximity 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 a European site.

## **Conclusion**

In the light of my assessment, I conclude that, while the proposal would facilitate the replacement of a non-conforming use with one that would be permissible in principle in a residential conservation area and while it would replace an existing unattractive north light building with one that would be of more attractive appearance, as this proposal would entail the demolition of a historic coach house, it would contravene the CDP's advice that such coach houses should be conserved on mews laneways and it would establish an adverse precedent for the further demolition of such coach houses of which there are a number in the immediate vicinity of the site, which individually and collectively, contribute to the character of Pembroke Lane. Accordingly, the approach adopted to the development of the site is flawed, as it fails to take account of the need to respect the streetscape presence of the existing coach house.

## **Recommendation**

In the light of my conclusion, I recommend that the demolition of the existing warehouse and the construction of a two storey plus attic over basement three bedroom dwelling set back from Pembroke Lane with a recessed terrace at first floor level on the southern façade, garden area to the front together with a new vehicular entrance from Pembroke Lane and one street car parking space, at 67 Pembroke Lane, Ballsbridge, Dublin 4, be refused.

## **Reasons and considerations**

Under the Dublin City Development Plan 2011 – 2017, the site lies within a residential conservation area and it presently accommodates a historic coach house, the principal elevation of which abuts the mews laneway known as Pembroke Lane. Under Section 17.9.14(a) of the City Development Plan, the importance of coach houses on mews laneways is recognised and the corresponding need to retain and conserve all surviving examples is stated. Under the proposal for the site, the coach house would be demolished and so the aforementioned Section would be contravened. Furthermore, as this coach house is one of a number of coach houses and existing and permitted mews dwellings in the vicinity of the site, which form a cluster that contributes positively to the streetscape of Pembroke Lane, such demolition would erode the character of the residential conservation area and establish an adverse precedent for similar demolition and further such erosion of character in the future. Accordingly, to permit the proposal would be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison

Inspector

15<sup>th</sup> January 2016