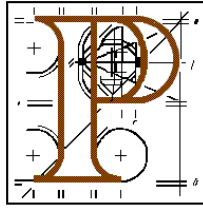


# An Bord Pleanála



## Inspector's Report

**Appeal Reference No:** 245737

**Development:** First Floor Extension over existing garage (protected structure)

**Location:** 4 Gardiner Street Upper, Dublin 1

### Planning Application

**Planning Authority:** Dublin City Council

**Planning Authority Reg. Ref.:** 3487/15

**Applicant:** Eoin Finnegan

**Planning Authority Decision:** Refuse permission

### Planning Appeal

**Appellant:** Eoin Finnegan

**Type of Appeal:** 1<sup>st</sup> v Refusal

**Date of Site Inspection:** 1<sup>st</sup> February 2016

**Inspector:** Dolores McCague

## **1 SITE LOCATION AND DESCRIPTION**

- 1.1 The site is located at 4 Gardiner Street Upper, Dublin 1. The site is occupied by a four storey over basement Georgian dwelling in multiple occupancy residential use. The site extends to Nerney's Court at the rear and is accessible via a domestic garage which opens onto Nerney's Court at the western boundary of the property. Nerney's Court is a network of narrow streets; it includes streets which continue from Temple Street to Gardiner Place, and spurs which end at the rear of property. A spur of Nerney's Court, east of the through route between Temple Street and the arched exit to Gardiner Place, accesses the subject site. The spur continues south and east from the through route narrowing as it accesses the rear of the properties at the corner of Gardiner Place and Gardiner Street. There are some large multi storey office developments on Nerney's Court and some surface car parking. At this lane spur there are sheds which appear to be ancillary to the main buildings to the rear of which they are located.
- 1.2 The building to the south appears to be unoccupied and in a poor state of repair.
- 1.3 No 4 Gardiner Street Upper, Dublin 1 is a four storey over basement terraced house, with a two storey return to the rear and an external metal escape stairs, which leads from the second floor across the two storey return and down onto the flat roofed single storey store building.
- 1.4 The portion of the subject site, in which the proposed development is sited, is at the rear of the site, abutting Nerney's Court. It comprises a single storey flat roofed garage which extends for the full width of the site, with a metal upwards opening door to Nerney's Court and a pedestrian doorway to the enclosed yard to the rear of the main building. A narrow single storey flat roofed store building along the northern boundary, between the garage and the two storey rear return, is also part of the proposed development.
- 1.5 The site is given as 163m<sup>2</sup>.

## **2 PROPOSED DEVELOPMENT**

- 2.1 The proposed development is the erection of a first floor area above a domestic garage and store. The proposed development will involve the removal of the existing flat roof and a portion of

wall and the construction of a first floor building with a flat roof and a parapet wall, one window facing towards the back of the dwelling and two roof lights. Access, via the existing store, will be provided by an internal stairs. The proposed store will extend over the existing garage and store.

- 2.2 The extension is referred to in the public notices as a storage/workshop. The appeal clarifies that the intended use is domestic storage as part of the residential use of the main building.
- 2.3 Photographs of the site are included in the Conservation Method Statement, which is part of the planning documents.
- 2.4 The portion of the external stairs from the two storey return to the flat roofed store will be removed. There is no indication of a replacement.
- 2.5 The stated area is 40m<sup>2</sup>.

### **3 PLANNING HISTORY**

The only planning history stated in the planning report is an invalid application in 2015.

### **4 PLANNING AUTHORITY DECISION**

#### **4.1 Planning and technical reports**

- 4.2 The Engineering Dept, Drainage Division report (2/10/2015) - has no objection to the development subject to the developer complying with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 (available from [www.dublin city.ie forms and Downloads](http://www.dublin.city.ie/forms_and_downloads)). Drainage shall be designed on a completely separate system with a combined final connection discharging into the public combined sewer system. Stormwater management to incorporate SUDS. All private drain fittings such as downpipes gullies manholes Armstrong Junctions etc are to be located within the final site boundary. Private drains should not pass through property they do not serve.
- 4.3 The Conservation Officer's report (3/10/2015) – seeks additional information - the applicant to provide the historical analysis of the site and to confirm the originals of the surviving footprint; proposed design to have regard to the surviving significance and

to be informed by the historically known character of the coach house lanes. The report states that the development appears to concern the remnants of a former coach house structure and they would be supportive of the adaptation of a coach house where due consideration is given to the surviving fabric and the re-making of a historically known form to the area. The proposal as it stands is not appropriate in terms of design or materials to the significance of the setting to the rear of a protected structure fronting the main square / garden – now part of the Architectural Conservation area.

4.4 Roads and Traffic Planning Division Report (7/10/2015) – seeks additional information regarding the existing uses on site and whether the proposed development will result in additional vehicular movements on Nerney's Court.

4.5 Planning Report (11/8/2015) – The depth of the extension at 10.2m would abut against the existing return of the main protected structure. The existing use of the garage is not clear. There is a single storey structure adjoining the site to the south east. No details have been provided as to the proposed use of the structure and the additional first floor element. There are some two storey buildings in the vicinity although the majority were constructed as two storey buildings rather than the addition of a first floor element. It is considered that the addition of a large scale first floor addition would be unsympathetic to the scale and character of the main building and would detract from the amenities of the architectural conservation area.

#### 4.6 **Planning Authority Decision**

4.7 The Council issued notification of decision to refuse permission for the proposed development for the following reasons:

*1 Having regard to the scale, design and materials of the proposed development, it is considered that the proposed development would have an adverse impact on the character and setting of the main building No. 4 Gardiner Street Upper a protected structure. The proposed development would set an undesirable precedent, would be contrary to the Z8 zoning objective as set out in the 2011-2017 Dublin City Development Plan and would therefore be contrary to the proper planning and sustainable development of the Mountjoy Square architectural conservation area.*

## 5 GROUNDS OF APPEAL

5.1 A first party appeal has been lodged on behalf of the applicant by Hendrik W van der Kamp. It includes:

5.2 The main building at No 4 Gardiner Street Upper, is a protected structure Ref 3091. The building forms part of a terrace of houses dating from the later 18<sup>th</sup> and early 19<sup>th</sup> century. The site is situated within the Mountjoy Square Architectural Conservation Area. The proposed development is to construct additional floorspace above the existing domestic garage at the rear of the site for domestic use ancillary to the residential use of the main building. The additional floor area would be accessed from a new internal staircase inside the garage.

5.3 The adjoining building to the south (no. 3) is in a state of poor repair and is vacant. The first party purchased No 4 in 2013 and the use is residential multi-occupancy. The existing garage is used as domestic storage as part of the residential use of the main building. The proposed use for the additional floor space would be the same.

5.4 The City Development Plan states in relation to works to protected structures:

*In determining applications which relate to protected structures or their setting the authority will take into account:*

- *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 interventions and alterations proposed and that which have already taken place, excluding any unauthorised development.*
- *Setting and contribution to streetscape.*
- *Extent to which the proposed works would bring substantial benefits to the community.*
- *In the case of change of usage regard will be had to the compatibility of such use in terms of its impact on the protected structure*

5.5 The proposed development has no impact on the existing dwelling and will not be visible in any views from the front of the house or from the nearby Mountjoy Square.

- 5.6 The proposed first floor storage area will improve the practical use value of the main house and contribute to the conservation of the main house as a protected structure.
- 5.7 Re curtilage – it is not possible to be definitive about the surviving footprint of the original building. While it is clear that the building always had the return and that there was a structure where the current garage is positioned, it is doubtful that any element of the garage structure is original. The increase in the height of the building is modest as the existing building will be lowered. The existing height of 3.8m will increase to 6m.
- 5.8 Re Architectural Conservation Area the zoning objective is – to protect the existing architectural and civic design character, to allow only for limited expansion consistent with the conservation objective.
- 5.9 The site is in the Mountjoy Square Architectural Conservation Area. Nerney’s Court forms part of the Architectural Conservation area and was surveyed as part of the ACA report. The rear of the site has had access from Nerney’s Court for many years as is evident from old ordnance survey maps, only part of Nerney’s Court is mentioned as one of the mews laneways associated with Mountjoy Square. The other mews lanes listed are Belvedere Court, Charles Lane, Gardiner Lane and Grenville Lane.
- 5.10 The significance of the main building is not questioned.
- 5.11 The significance of the garage at the rear is not clear. Existing interventions include the installation of a shutter door, which was in place when the building was purchased. The proposed development would have no negative impact on the streetscape of Nerney’s Court.
- 5.12 No change of use is proposed.
- 5.13 Regarding precedent – there are a number of office buildings of four storey height and an apartment block with five storeys, and many different uses. There is no uniformity of scale or height. The proposed development would not constitute a precedent.
- 5.14 Traffic – the roads section recommended additional information re. traffic movements. The proposed development is for domestic use in connection with the residential use of the main building. The existing garage is used for the parking of a single vehicle. This would continue to be the case. The proposed additional floor area would not generate any additional traffic movements.

## 6 RESPONSES

- 6.1 The Planning Authority
- 6.2 In response to the first party appeal, the Planning Authority considers that the comprehensive planning report deals fully with the relevant issues raised and justifies its decision.

## 7 PLANS AND POLICIES

- 7.1 The **Dublin City Development Plan 2011 - 2017** is the operative plan.
- 7.2 The site is in an area zoned '*Z8: to protect the existing architectural and civic design character, to allow only for limited expansion consistent with the conservation objective*'. The site is in the Mountjoy Square Architectural Conservation Area. The site is in an area of archaeological interest. Number 4 Gardiner Street Upper is a protected structure.
- 7.3 In Architectural Conservation Areas special care is required in terms of development proposals which affect structures both protected and non-protected. The special value of conservation areas lies in the architectural design and scale of these areas and is of sufficient importance to require special care in dealing with development proposals and works by the private and public sector alike. Dublin City Council will thus seek to ensure that development proposals within all conservation areas complement the character of the area, including the setting of protected structures, and comply with development standards.
- 7.4 Objective FC40: To protect the special character of the city's conservation areas through the application of the policies, standards and guiding principles on building heights.
- 7.5 Objective FC41: To protect and conserve the special interest and character of Architectural Conservation Areas and Conservation Areas in the development management process.

17.10.8.1 Development in Conservation Areas: All new buildings should complement and enhance the character and setting of conservation areas. In considering proposals for development in conservation areas, it is policy to have particular regard to: the effect of the proposed development on buildings and the surrounding environment, both natural and manmade; the impact of development on the immediate streetscape in terms of compatibility of design, scale, height, plot width, roof treatment, materials, landscaping, mix and intensity of use proposed.

- 7.6 Development within conservation areas should be so designed so as not to constitute a visually obtrusive or dominant form of development. New alterations and extensions should complement existing buildings/ structures in terms of design, external finishes, colour, texture, windows/ doors/ roof/ chimney/ design and other details.
- 7.7 **Dublin City Council Development Contribution Scheme 2010 – 2017.**
- 7.8 Exemptions include - the first 40sq metres of extensions to a residential development (subsequent extensions or extensions over and above 40 square meters to be charged at the residential rate per square meter).
- 7.9 **Dublin City Council Supplementary Development Contribution Scheme for Metro North St. Stephen's Green to City Boundary at Ballymun.**
- 7.10 Exemptions include – Domestic extensions.

## **8 ASSESSMENT**

8.1 The issues which arise in relation to this development are appropriate assessment, visual amenity of the conservation area, conservation and traffic, and the following assessment is addressed under these headings.

### **8.2 Appropriate Assessment**

8.3 In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision on the proposed development. The process is known as appropriate assessment. In this regard a guidance document 'Appropriate Assessment of Plans and Projects in Ireland' was published by the DoEH&LG on the 10 December 2009.

8.4 Having regard to the nature of the proposed development which is a small first floor extension to a building in a serviced area, 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.

#### 8.5 **Visual Amenity of Conservation Area**

8.6 The proposed development will be visible from the laneway to the rear of the site and from windows which overlook these backlands. The proposed development will not appear as an incongruous feature given the pattern of development in the area.

#### 8.7 **Conservation**

8.8 The report of the Conservation Officer states that the development appears to concern the remnants of a former coach house structure and recommends that further information be sought: historical analysis of the site and confirmation of the originals of the surviving footprint. The report considers that the proposal was inappropriate in terms of design and materials to the setting to the rear of a protected structure, and a former coach house structure; although supportive of the adaptation of a coach house where due consideration is given to the surviving fabric and the re-making of a historically known form to the area.

8.9 The grounds of appeal responds to the conservation concerns stating that it is not possible to be definitive about the surviving footprint of the original building. *'While it is clear that the building always had the return and that there was a structure where the current garage is positioned, it is doubtful that any element of the garage structure is original. The increase in the height of the building is modest as the existing building will be lowered'*.

8.10 The existing height of the building is given as 3.809m. The proposal involves lowering this building to 3m and building a first floor area which will increase to the overall height to 6m. Original fabric may be encountered in the demolition process, although it looks from a cursory visual inspection, that the uppermost sections of some of these walls are recent additions.

8.11 Should original fabric be encountered in the demolition, it will be of very limited extent, since the demolition is of limited extent and since some fabric is clearly not historic, and in my opinion it would be sufficient to have preservation by record, in this case.

8.12 In relation to the statement in the grounds of appeal that the proposed first floor storage area will improve the practical use value of the main house and contribute to the conservation of the main house as a protected structure; if the proposed development

supports the long term use of the main building as a residential building and supports its conservation, that outcome is to be desired.

8.13 The zoning objective is to protect the existing architectural and civic design character, to allow only for limited expansion consistent with the conservation objective. In my opinion the proposed development would not be contrary to the zoning objective.

8.14 **Traffic**

8.15 The Roads and Traffic Planning Division recommended that further information be sought regarding the existing uses on site and whether the proposed development would result in additional vehicular movements on Nerney's Court.

8.16 The grounds of appeal states that the existing garage is used for the parking of a single vehicle, and the proposed development is for domestic use in connection with the residential use of the main building.

8.17 I am satisfied that the proposed development of a storage area for domestic use in connection with the residential use of the main building, would not result in additional vehicular movements on Nerney's Court.

## **9 RECOMMENDATION**

I recommend that planning permission be granted, for the following reasons and considerations, subject to the conditions set out hereunder.

## **10 REASONS AND CONSIDERATIONS**

In light of the foregoing assessment it is considered that the proposed development would be in accordance with the provisions of the development plan, would not unduly impact on adjoining property or on the amenities of the area, would support the residential use of the site and the conservation of the main building and would accordingly be in accordance with the proper planning and sustainable development of the area.

Conditions:

- 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 11 day of November 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 A Conservation Architect with at least Grade III standard accreditation, shall be employed to supervise the demolition work, and any historic fabric or features encountered shall be preserved by record and the record shall be submitted to the planning authority.

**Reason:** In the interest of preserving any historic fabric or features which may be demolished.

- 3 The external finishes of the proposed building shall be subject to the prior agreement of the planning authority.

**Reason:** In the interest of visual amenity.

- 4 Prior to the commencement of the proposed development, the developer shall agree alternative proposals for the external metal stairs, the lower portion of which is being removed as part of the proposed development.

**Reason:** in the interests of safety.

- 5 Surface water drainage arrangements, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of orderly development.

- 6 The extension to the garage/store shall be used only for private domestic use, associated with the residential use of the main building.

**Reason:** In the interest of orderly development.

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Dolores McCague  
Inspectorate

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Date

Appendix 1 Map and Photographs  
Appendix 2 Extracts from the Dublin City Development Plan  
2011 -2017