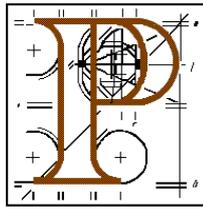


An Bord Pleanála



Inspector's Report

Development:	Retention of modifications to previously approved permission reg. ref. 6632/06 comprising new velux rooflights and change to layout.
Location:	Rear of 122 North Circular Road, Dublin 7.
Planning Application	
Planning Authority:	Dublin City Council
Planning Authority Reg. Ref.:	2127/16
Applicant:	Vertus Ltd
Type of Application:	Permission
Planning Authority Decision:	Grant Permission
Planning Appeal	
Appellant:	Colman Ó Siochrú & Angela Brennan
Type of Appeals:	3 rd v Grant
Date of Site Inspection:	23 rd June 2016
Inspector:	Dolores McCague

1 SITE LOCATION AND DESCRIPTION

- 1.1 The site is situated at Aughrim Place to the rear of 122 North Circular Road, Dublin. No. 122 North Circular Road, is part of a two storey over basement terrace and is a protected structure. From details submitted with the previous planning application, the boundary wall between the main house and the mews building was constructed in 1981 prior to the sale of the mews building/lower section of garden. Aughrim Place runs from Aughrim Street to Oxmantown Road. Along its north-western side it is formed by the mews buildings associated with dwellings on North Circular Road; some of which are semi-derelict / disused and some of which are in use; including a number refurbished and used as dwellings. The other side of Aughrim Place is formed by the gables and side boundaries of dwellings on Aughrim Street, Carnew Street and Oxmantown Road and the public thoroughfares of Lucky Lane and Carnew Street.
- 1.2 A two storey mews development has been completed on the subject site.
- 1.3 It comprises a stone fronted building on the edge of the footpath, with a front door and small window to the left of an up and over garage door at ground level and a large box type dormer window at first floor level above the garage door. The building is laid out as a dwelling with a kitchen/ living area at ground level which has double sliding door accessing the rear. A garage, toilet and stairs with understairs controls for heating are also located at ground floor level. Three bedrooms, a bathroom and a large water storage cylinder press are located at first floor level. To the rear a paved courtyard extends across the width of the site and is some 8m in depth.
- 1.4 The site area is given as 138sq m.

2 PROPOSED DEVELOPMENT

- 2.1 As described in the notices and on the application form the proposed development comprises retention of modifications to previously approved planning permission (reg. ref. 6632/06) for conversion of a semi-derelect two storey mews building to a two storey three bedroom dwelling with integrated garage. The modifications comprise addition of a new velux rooflight to the front slope on Aughrim Place and minor layout and elevational changes.
- 2.2 The main change identifiable on the drawings is the substitution of two bedrooms at ground floor by a living room / kitchen which was previously proposed at first floor and the substitution of the two bedrooms previously proposed at ground floor by additional upstairs bedrooms.
- 2.3 A velux window, not previously proposed, can be seen on the front elevation.
- 2.4 Previous permission 29N.225025 PA reg. ref. 6632/06 permitted conversion of an existing two storey mews to a three bedroom two storey house with integrated garage and new two storey extension.
- 2.5 The total floor area of the development is given as 115m².

3 PLANNING AUTHORITY DECISION

- 3.1 The planning application was lodged on the 27th January 2016.
- 3.2 **Technical Reports**
- 3.3 Engineering Department Drainage Division – 23/02/16 – conditions.

- 3.4 Planning Report 23/3/16 – zoning Z2 ‘to protect and/or improve amenities of residential conservation areas’. The modifications comprise of an addition of a new velux rooflight to the front slope on Aughrim Place and minor elevation and layout changes.

Sec 17.9.8 of the City Development Plan – extensions and alterations to dwellings, states that:

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.

The report identifies the changes as the additional velux rooflight and changes to the layout and elevation. Previously the bedrooms and bathroom were on the ground floor with the proposed internal garage, and the living/kitchen/dining room were located on the first floor with the third bedroom. This has now been flipped with all the bedrooms on the first floor level with a family bathroom and the living/kitchen/dining room on the ground floor level. The applicants have also altered the roof profile of the development.

It is considered that the proposed development for retention does not have an adverse impact on the scale and character of the dwelling as previously approved. It is also considered that the revised development does not have any additional unacceptable effects on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy, daylight and sunlight.

The report recommended that planning permission be granted.

- 3.5 The planning authority decided – 16th March 2016 - to grant planning permission subject to conditions including condition no. 1 which states.

Insofar as the Planning & Development Act 2000 (as amended) and the Regulations made thereunder are concerned the

development shall be retained in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the conditions attached hereto. For the avoidance of doubt, this permission shall not be construed as approving any development shown on the plans, particulars and specifications, the nature and extent of which has not been adequately stated in the statutory public notices.

Reason: To comply with permission regulations.

3.6 Observations on the file have been read and noted.

4 PLANNING HISTORY

Reg. Ref. **1000/06** – An application for a social housing exemption certificate for the conversion of a 2 storey mews to 3 bedroom 2 storey house at rear of 122 North Circular Road - Granted.

29N.225025, PA reg. ref. **6632/06** conversion of an existing two storey demi-derelict mews to a three bedroom two storey house with integrated garage and new two storey extension, and change of use of commercial to residential construction of extension and balcony at first floor level with conditions which altered the window arrangements.

Documents included a structural engineers report which stated – under the proposed refurbishment and extension of the existing mews building, the two party walls and the rear wall will be largely retained as they are at present. The front wall will be retained, but with significant modification to the window and door opes. In order to prevent water ingress, it is proposed to render the external face of the front wall. However, since this front wall has already been extensively modified and much of the stonework has been replaced with blockwork, this should not be an issue.

Conditions included condition no. 1, in three parts:

(1) The front elevation shall be finished in the existing exposed stonework or in exposed stone replicating the existing elevation, except for the new window element at first floor level and the surrounds to the garage and door at ground floor level which shall be finished in render.

(2) The window arrangements to the rear shall reflect the proposed rear elevation as set out in drawing number 06/10/01 – Revision A, received by the planning authority on the 27th day of June, 2007 and not the proposed first and ground floor plans as set out in the said revised drawing.

(3) The amount of glazing in the first floor windows to the rear shall be reduced by 50 per cent but may be complemented by rooflight windows. Revised drawings regarding this reduction shall be submitted to the planning authority for agreement prior to commencement of development.

Reason: In the interest of residential amenity of adjoining properties.

6632/06 x 1 - extension of duration granted until 29/4/2018

E 0858/15 - enforcement for demolition of mews/non-compliance with planning permission.

5 GROUNDS OF APPEAL

- 5.1 A third party appeal to decision to grant permission has been received from Colman Ó Siochrú & Angela Brennan, no. 124 North Circular Road.
- 5.2 The grounds can be summarised as follows:
- 5.3 It is irrational and unreasonable that the planning application was accepted. The application grossly misrepresents the built reality and planning history of the structure.
- 5.4 The entire development was unauthorised by virtue of the demolition of the existing mews structure.
- 5.5 The planning permission clearly showed the extent of renovations and the structures to be retained. No application was made for demolition.

- 5.6 The entire development was unauthorised by virtue of the developer not complying with the conditions. Drawings were never submitted on foot of condition no. 1.
- 5.7 It is irrational and unreasonable to accept the drawings without testing with measurement drawings which misrepresent the built reality.
- 5.8 It is irrational and unreasonable to grant permission subject to the condition no 1 attached to the decision, when it had prior photographic evidence that the measurements of the building as built were over one meter distant from the plans.
- 5.9 Under the current Development Plan the development demolition and form of the building would not normally be permitted.

The provisions of 17.9.14 are at odds with the development:

Dublin City Council will actively encourage comprehensive schemes which provide a unified approach to the development of residential mews lanes and where consensus between all property owners has been agreed in advance. This design framework is the preferred alternative to individual development proposals. Where mews dwellings are proposed, the following standards will apply:

a). 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 of the surviving examples, particularly in relation to their form, profile and building line as well as any original features remaining. Proposals to demolish such buildings on economic grounds will generally not be accepted.

d). New buildings should complement the character of both the mews lane and main building with regard to scale, massing, height, building depth, roof treatment and materials. The design of such proposals should represent an innovative architectural response to the site and should be informed by established building lines and plot width. Depending on the context of the location, mews buildings may be required to incorporate gable-ended pitched roofs.

f). Accommodation will only be allowed in the roof space of a two storey mews if the pitch and eaves height of the mews dwelling is

in accordance with the established pattern on the laneway. This provision shall not apply where three storey mews developments are proposed. Dormer windows, front or rear, will not be permitted, and balconies will be considered on their merits.

17.5 - site coverage - Z2 indicative site coverage 45%, not 37% as built.

- 5.10 The Board granted the original permission based on the pattern of development in the area. Any of the nearby mews dwellings were designed as part of a unified approach and did not overlook the buildings/ gardens adjacent.
- 5.11 They object to the changes to the roof profile, the reduction in yard area, the extended extension to the rear, increased overlooking, and the overbearing and overshadowing effect of the changes. Drawings and photographs are included in the submission.

6 RESPONSES

6.1 Planning Authority

- 6.2 The Planning Authority has responded to the grounds of appeal, referring to the planning report and stating that it has no further comment to make.

6.3 First Party

- 6.4 The House Architects, has responded to the grounds of appeal on behalf of the First Party, Vertus Ltd.

- 6.5 The response includes:

- 6.6 Their client purchased the property in 2015 and understood that all previous outstanding planning issues had been successfully

addressed, including any compliance conditions. The principle change in the 'as built' project is the replacement of the first floor kitchen/dining room overlooking the rear of properties on North Circular Road with a bedroom. It was considered by the first party that the layout previously granted, which positioned the kitchen/living room at first floor level, compromised the privacy of both the occupants of the new mews house and the rear gardens of other properties in the vicinity. The layout change is a crucial benefit to the neighbouring properties. The additional velux to the front roof slope was introduced to bring some natural light and ventilation to the ensuite bathroom. It does not punctuate the eaves line. The rooflight allowed the first party to maximise the area of stonework.

- 6.7 The rear elevation has been modified slightly to reflect the larger living accommodation at ground level. The size of the first floor windows has been maintained within the limits prescribed by the previous planning conditions.
- 6.8 The roof profile in the valley between the original mews block and the extension has been modified slightly for practical reasons of structural integrity and head-height, however this has had no appreciable impact on either the height or profile of the mews when viewed from either the street or the rear of the existing houses on North Circular Road.
- 6.9 Responding to the grounds of appeal, the first party states that it is an appeal against the principle of the development.
- 6.10 The conversion and extension has involved a significant degree of reconstruction and replacement of decayed timbers and unstable stonework. The enforcement/compliance officials from Dublin City Council are familiar with the nature of this process in reconstruction work.
- 6.11 The response refers to visits from Building Control and Enforcement Officials who were satisfied with the works. There is no case to be answered in respect of compliance with the original permission. The Board is requested to disregard the spurious arguments made.

7 RESPONSES

- 7.1 An observation has been received from An Taisce, which includes:
- 7.2 There are significant issues of compliance including the demolition of the historic mews structure, one of three at this location; and the greater footprint and bulk of the structure with impact on residential amenity. The unauthorised development involves loss of the 19th century mews/coach house, of conservation interest. These structures are referred to in section 17.9.14 of the development plan. The retention should be refused.

8 POLICY CONTEXT

- 8.1 **The Dublin City Development Plan 2011 – 2017** is the operative plan.
- 8.2 Relevant provisions include in chapter 17 Development Standards – 17.9.14 mews dwellings – comprehensive schemes are preferred to individual developments. New buildings should complement the character of both the mews lane and main building with regard to scale, massing, height, building depth, roof treatment and materials. The design of such proposals should represent an innovative architectural response to the site and should be informed by established building lines and plot width.

9 ASSESSMENT

- 9.1 The main issues which arise in relation to this development are accuracy of retention application details, residential amenity and appropriate assessment and the following assessment is addressed under these headings.

9.2 Retention Application Details

- 9.3 The grounds of appeal states that the development is unauthorised by virtue of demolition carried out; drawings were never submitted on foot of condition no. 1; and the drawings misrepresent the built reality.
- 9.4 I note that one of the history files referred to in the planning report is described as *'enforcement for demolition of mews/non-compliance with planning permission'*. I note also that the response to the grounds of appeal states that the development involved *'a significant degree of reconstruction and replacement of decayed timbers and unstable stonework'*. I note also that the development as previously proposed and permitted provided that *'the two party walls and the rear wall will be largely retained as they are at present. The front wall will be retained, but with significant modification to the window and door opes'*. To the extent that demolition has been carried out to these walls, its retention is required and it should be documented as part of this application.
- 9.5 In relation to the failure to submit drawings on foot of condition no. 1; this application for retention is a remedy for such omission.
- 9.6 The accuracy of the drawings is called into question by the third parties, who state that the extension is in excess of 1m beyond the footprint shown on the drawings.
- 9.7 The site layout for the previous application indicated that the development would extend to 9.439m from the rear boundary. In the subject application this distance is given as 9.039m although the alteration is not referred to in the application. The distance as measured on the ground is c 8m. There are consequent discrepancies in the internal layout.
- 9.8 The details submitted are inadequate to describe and document the development.

9.9 Residential Amenity

9.10 The third parties have concerns in relation to the effect of the new roof profile and the extended extension to the rear in terms of privacy, overshadowing and overbearing impact.

9.11 On the date of inspection I was unable to view the site from the third party property. The planning authority documentation includes photographs and drawings submitted by the objectors/third parties. The extended development and roof, as viewed from the third parties dwelling, can be seen from these pictures. The extended development is still of relatively modest scale and is subordinate to the main building. Notwithstanding the larger and more elaborate roof, including the array of solar panels, the development is not, in my opinion, overbearing. Any overshadowing impact is marginal. There remains a significant distance between the extended extension and the third party dwelling and the alterations to the internal layout is beneficial to the privacy of the third party property. In my opinion residential amenity should not be a reason to refuse permission.

9.12 Appropriate Assessment

9.13 The proposed development is the retention of modifications to previously approved permission reg. ref. 6632/06, the conversion of a semi-derelict two storey mews building to a two storey three bedroom dwelling with integrated garage. The site is in a built-up area with public water services.

9.14 The nearest Natura sites are South Dublin Bay and River Tolka SPA (004024) and South Dublin Bay SAC (00210) which are separated from the subject site by a distance in excess of 4km and by Dublin City centre.

9.15 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.

- 9.16 Having regard to the nature and scale of the proposed development 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.

10 RECOMMENDATION

In accordance with the foregoing assessment, I recommend that planning permission be refused for the following reasons and considerations.

REASONS AND CONSIDERATIONS

Articles 22 to 23 of the Planning and Development Regulations 2001 as amended set out the requirements for a planning application including drawings of floor plans, elevations and sections and such other particulars, as are necessary to describe the works to which the application relates. It is considered that the submitted details of the development proposed for retention, inadequately describe the development and differ materially from the development on site. The Board is, therefore, precluded from granting permission for the proposed development.

Dolores McCague
Inspectorate

Date

Appendix 1 Map and Photographs
Appendix 2 Extracts from the Dublin City Development Plan
2011 - 2014