



An
Bord
Pleanála

Inspector's Report PL 29N.246867

Appeal Reference No:

PL 29N.246867

Development:

Permission is sought for the proposed demolition of existing single storey extension to rear, proposed construction of new two storey extension to the rear, new window opening to side of existing two storey return extension at first floor, associated internal modifications and external landscaping. 1 Rosemount Road, Phibsborough, Dublin 7.

Planning Application

Planning Authority:

Dublin City Council

Planning Authority Reg. Ref.:

2744/16

Applicant:

Michael Kelly

Planning Authority Decision:

Grant Permission with conditions

Planning Appeal

Appellant(s):

Dalen Kambur & Helen Whelan

Type of Appeal:

Third Party – V - Grant

Observers:

Kieran Collins & Anne-Marie Kiernan

Date of Site Inspection:

30th August 2016

Inspector:

Tom Rabbette

1.0 SITE LOCATION AND DESCRIPTION

The application site is located on Rosemount Road in Phibsborough in Dublin 7. Rosemount Road is a residential cul-de-sac and forms a T-junction at its north-western end with the North Circular Road. The application site currently accommodates an end-of-terrace two-storey dwelling. Two terraces containing 10 dwellings each front onto Rosemount Road, one along its northeastern side and one on the opposite southwestern side. These terraces date from the early years of the C20th, they are of red brick finish with cast iron railings and gates to their front garden/yard areas providing a strong sense of place and architectural character to this residential street. There is on-street parking on both sides of the street. To the rear of the application site there is a sunken area that used to accommodate a rail line, the Board granted a Rail Order providing for the BXD Line (Luas Cross City Line) to run along this route, works are ongoing in relation to the delivery of that infrastructure. The CIE Broadstone Depot is located c. 250 m to the south-east of the site. There is a laneway running along the north-western side of the application site. There are four dwellings that front onto the North Circular Road and back onto this shared laneway. Access to this laneway is restricted as there is a locked gate at its entrance off Rosemount Road.

2.0 PROPOSED DEVELOPMENT

The applicant is seeking permission to construct a two-storey extension to the rear of the existing two-storey end-of-terrace dwelling. The proposed development will entail the demolition of an existing small single storey extension to facilitate the new extension. It is also proposed to create a new window opening at first floor level of the existing two-storey return at the rear. The proposed development will also entail internal modifications to the existing dwelling and external landscaping. The works will provide for a kitchen/dining room at ground floor level and two new bedrooms at first floor level (replacing one existing small bedroom. The dwelling currently has 3 bedrooms, there will be four bedrooms provided with the new works.

3.0 PLANNING HISTORY

I am not aware of any directly relevant planning history pertaining to the site.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

Planner's Report dated 08/06/16:

- Permission recommended subject to conditions.

Engineering Department Drainage Division Report dated 24/05/16:

- No objection subject to conditions.

Transport Infrastructure Ireland Report dated 26/05/16:

- Proposal is located adjoining Luas Cross City Project.
- Conditions recommended.

Objection/observations: Objections/observations on file addressed to the p.a. make reference to the following: loss of privacy; encroachment on shared access side passage; impact on light to the passage; impact on shared access side passage to facilitate development; potential impact on sewer; extension is aesthetically questionable; complex roof design proposed; existing redbrick finish visible from NCR & Rosemount Rd.; laneway boundaries should be properly reinstated; access right along laneway reserved; foundations extend beyond site; finish to the extension; overdevelopment of the site; reduced amenity of adjoining properties; not complementary with the area's architectural character; inadequate private open space remaining on site, and Z2 zoning.

4.2 Planning Authority Decision

By Order dated 09/06/2016 the planning authority decided to grant permission subject to 9 no. conditions.

5.0 GROUNDS OF APPEAL

Dalen Kambur & Helen Whelan, North Circular Road, Phibsboro, Dublin 7.

The contents of the third party appeal from the above can be summarised as follows:

- The p.a. decision should be overturned.
- Insufficient private open space remaining on site.
- The resultant ratio of 1.22 is excessive for a Z2 zoned area.
- It is an excessive overdevelopment of the building site and is inappropriate for a Victorian conservation area.
- Concerns raised about encroachment on the common shared access side passage.
- Insufficient restrictions are placed on materials to be used in the construction of new north wall.
- This north wall will be visible from the appellants' backyard but also from the NCR and Rosemount Road.
- The development should be required to use reclaimed Victorian bricks of the same colour and size as the original.
- The p.a. decision fails to require the proper reinstatement of the boundary walls and the preservation of the shared access passage.
- The application should be rejected.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

In a letter dated 11/07/16 the planning authority refer the Board to the Planner's Report already on file which still stands. The Board is requested to uphold the p.a. decision.

6.2 First party response

The contents of the response on behalf of the first party as prepared by Melted Snow Architects can be summarised as follows:

- This modest development proposal is intended to modernise the house and bring it to C21st standards for city living.
- The house is adjacent to the new Luas transport link and situated on a four car lane wide street.
- There is no specific minimum area for private open space provision given in Appendix 25 of the CDP.
- The minimum requirement for an exempted development is 25 sq.m. to the rear.
- The area of private open space is 33.6 sq.m.
- The calculation sheet attached to the objector's letter is not accurate, the total development (new and retained) is 155 sq.m.
- The actual plot ratio is 1.04 not 1.2.
- The plot ratio is well within CDP indicative standards.
- The proposed development will not encroach on the common shared access side passage.
- The building line to the side will be flush with the gable end of the main dwelling house resulting in no reduction to the amenity of the laneway shared by all parties adjacent.
- The proposed side gable wall of the extension to the rear shows for a brick finish for first floor level up to eaves level of the hipped roof.
- It is proposed to source a brick which is sympathetic in colour and style to match the Victorian style of the existing house.
- The boundary wall to the side laneway will be fully renewed to provide privacy and security to the occupants of the house.
- Access to the manhole and telecoms distribution pole will not be compromised.
- The Board is requested to uphold the p.a. decision.

6.3 Observations on grounds of appeal

Kieran Collins & Anne-Marie Kiernan, North Circular Road, Phibsborough, Dublin 7.

The contents of the observer submission from the above can be summarised as follows:

- The site is zoned Z2 not Z1.
- Use of shared access laneway is contrary to the neighbours' access rights and expressed wishes.
- Sewer runs under both the side and rear shared access laneways.
- The foundation footings extend out beyond the site plot.
- Application fails to show sewer access manhole in the laneway.
- Misleading impression of existing side elevation given with respect to finishes.
- All of the proposed extension should be finished in Victorian matching red brick.
- Proposed window should have brick arch lintel and a granite sill.
- The size of the extension should be reduced as it is out of scale with the existing architecture in the area and with the plot size.
- Concerns raised about the new window in the existing return with reference to overlooking and loss of privacy.
- Development would drastically compromise the privacy of all four North Circular Road houses (to the northwest of the site).
- Observers suggest a rooflight instead of the window they consider to be overlooking.
- Inadequate private open space remaining on the site.
- Ratio of floor area to the plot size is extremely high for a conservation area.
- Site coverage is excessive and breaches the CDP indicative site coverage for conservation areas.

7.0 POLICY CONTEXT

The application site is located in an area where the land use zoning objective is 'Z2 – To protect and/or improve the amenities of residential conservation areas' as indicated on Map E of the Dublin City Development Plan 2011-2017. Other relevant sections of the CDP, in this instance, are:

Section 7.2.5.3 – Conservation Areas

Section 15.10.2 – Residential Neighbourhoods (Conservation Areas) Zone 2

Section 17.3 – Density Standards

Section 17.4 – Plot Ratio

Section 17.5 – Site Coverage

Section 17.9 – Standards for Residential Accommodation

Section 17.9.8 – Extensions and Alterations to Dwellings

Section 17.10.8 – Development in Conservation Areas and Architectural Conservation Areas

Appendix 25 – Guidelines for Residential Extensions

Extracts of the above sections are in the attached appendix for ease of reference by the Board.

8.0 ASSESSMENT

- 8.1 I have examined all the plans, particulars and documentation on file. I have carried out a site inspection. I have had regard to relevant provisions of the statutory plan for the area. In my opinion the main issues arising are:
- Overdevelopment / site coverage / plot ratio / private open space provision
 - Impact on the architectural character of the area
 - Development outside of site boundary / Impact on existing sewer
 - Overlooking / Loss of privacy
 - Appropriate Assessment

Overdevelopment / site coverage / plot ratio / private open space provision

- 8.2 The appellants hold that the amount of private open space remaining on the site following the development of the extension would not comply with the CDP. They consider the proposal to be an overdevelopment of the site and inappropriate for a Victorian conservation area. They hold that at 1.22 the plot ratio is excessive for a Z2 zoned area.
- 8.3 The observers hold that the plot ratio is extremely high for a conservation area and that at 63.5% the site coverage breaches the CDP indicative site coverage for conservation areas. They note that the CDP requires 10 sq.m. of private open space per bedspace and that the CDP also states that generally up to 60-70 sq.m. of rear garden space is considered sufficient for houses in the city. They describe the post-development back garden space of 27 sq.m. in this instance as misery and the 8 sq.m. 'patio' area as small, impractical and north-facing. They hold that these matters are demonstrative of the overdevelopment nature of the proposal.
- 8.4 I estimate that post-construction the rear garden area will be c. 27 sq.m. and the patio area will provide a further 8 sq.m., of private open space. That is a total of c. 35 sq.m. private open space to the rear of the dwelling. During the summer months the sun sets in the north-west in the late evening and therefore I am not convinced that the patio will be as 'impractical' as the observers suggest. Appendix 25 of the CDP provides guidance on extensions to dwellings. The applicant is correct in the observation that appendix 25 does not contain any minimum standard in relation to the amount of private open space that should remain on a residential site post the construction of the extension. I do note that in section 17.9 in relation to standards in new residential developments, the CDP states, *inter alia*, that standards for residential accommodation may be relaxed in relation to the refurbishment of existing buildings to take account of specific circumstances, subject to the provision of good quality accommodation (ref CDP p. 253). I consider that the extension will improve the residential amenity of the dwelling on the site, it does provide for a good quality of modern family accommodation. That

section 17.9 later goes on to state, *inter alia*, that for proposals for houses within the inner city, a standard of 5-8 sq.m. of private open space per bedspace will normally be applied, subject to the provision of a minimum of 25 sq.m. of open space per dwelling (ref: CDP p. 258). As stated above, the applicant will have c. 35 sq.m. private open space remaining on site to serve the occupants of the dwelling. The applicant's observation regarding exempted development in the Planning & Development Regulations requiring a minimum of 25 sq.m. of private open space is also worth noting, again the proposed development exceeds that requirement (ref: P & D Regs., Schedule 2, Part 1, Class 1, Condition/Limitation No. 5). In relation to plot ratio, the development proposal does fall comfortably within the indicative plot ratio for Z2 lands as per section 17.4 of the CDP. The stated site coverage in section 10 of the planning application form is 54% and therefore exceeds the indicative site coverage as contained in section 17.5 of the CDP of 45%. However, the CDP is clear that both plot ratio and site coverage are 'indicative', section 17.5 states that site coverage is a control for the purpose of preventing the adverse effects of over development, thereby safeguarding sunlight and daylight within or adjoining a proposed layout of buildings. I am satisfied that the proposed extension will not adversely impact on any adjacent properties by reasons of overshadowing or access to sunlight. The dwelling adjoining is to the south-east of the application site and it has a two-storey extension of similar length to the applicant's proposal. There are no adverse effects from either overshadowing or access to sunlight in relation to the appellants' or observers' properties to the north-west arising from the proposed development, in my opinion. I do not consider that the scale, massing or height of the proposal is inappropriate. The design of the proposed extension complies with the 'subordinate approach' as outlined in appendix 25 of the CDP, in my opinion.

- 8.5 Having regard to the foregoing, I do not consider that the proposed development constitutes an overdevelopment of the site. The extension is appropriate in scale and does not adversely impact on the existing dwelling on the site nor on adjacent properties. I therefore would not recommend that the Board refuse permission in relation to concerns about overdevelopment, plot ratio, site coverage or the amount of private open space remaining on the site. The residential amenities of the existing dwelling on the site will be improved by the proposed works and the land use zoning objective specifically allows for such improvement.

Impact on the architectural character of the area

- 8.6 The appellants hold that insufficient restrictions were placed on materials to be used in the construction of the north-west facing wall of the extension. They hold that this wall will be visible from the dwellings to the north-west and also from the North Circular Road and Rosemount Road.

- 8.7 The observers also hold that all of the extension should be finished in red brick to match that of the main dwelling on the site. They also hold that brick arch lintels and granite sills should also be used. They refer to the fact that the site is a Z2 'Residential Conservation' zoned area.
- 8.8 The end-of-terrace unit is located at the end of a terrace of early C20th dwellings, all (save for one dwelling) are finished in red brick. The terrace facing on the opposite side of the street also dates from the early C20th and is finished in red brick. There is a strong architectural character to the street. The applicant is proposing a brick finish to the first floor level of the side of the extension. The ground floor level is to have a render finish. The entire rear façade and the elevation facing into the patio area is also to have a render finish.
- 8.9 The area where the brick finish is proposed is the most visible element from the public domain. The plaster finish is restricted to the lower area and to elevations that are not prominent. The extension does not detract from the character or setting of the existing dwelling on the site nor does it detract from the visual amenities of Rosemount Road or the North Circular Road. The rear elevations and returns to the four dwellings that face onto the NCR and back onto the application site are not finished in brick, they have a render finish and these are visible from Rosemount Road (these four dwellings include the dwellings where both the appellants and the observers reside).
- 8.10 Subject to a condition requiring the applicant to agree the brick finish with the p.a. I would not recommend a refusal in relation to the proposed finishes.

Development outside of site boundary / Impact on existing sewer

- 8.11 Both the appellants and the observers raise concerns about development they claim will take place outside of the application site boundary. In particular, they have raised concerns about development on the shared access lane that runs to the north-west of the site. Reference is made to access to a manhole on a sewer in the laneway and also access to telecommunications infrastructure.
- 8.12 There is a narrow lane running along the side of the site, the dwellings to the north-west that front onto the NCR back onto this lane. Access to this lane is restricted by a locked gateway at its entrance off Rosemount Road. Drawings on file indicate that the development is to take place on lands within the control of the applicant. The applicant's agent, in response to the grounds of appeal, clearly states that development will not encroach on the existing laneway in any way and that access to the waste manhole and the telecoms distribution pole will not be compromised (ref: submission to the Board of the 03/08/16). The Board will be aware of the provision of s.34 (13) of the Planning and Development Act 2000 (as amended) in which it states: 'A person shall not be entitled solely by reason of a permission under this

section to carry out any development. I would also draw the Board's attention to a report on file from the Engineering Department Drainage Division of DCC (report dated 24/05/16) in which it is indicated that the Drainage Division has no objection to the proposal.

- 8.13 In the circumstances it would appear to be unreasonable to refuse permission in relation to this issue.

Overlooking / Loss of privacy

- 8.14 Both the appellants and observers have raised concerns about a proposed window that is to be located at first floor level in the existing return to the rear of the dwelling. This existing two-storey return is to be reconfigured internally. A window at first floor level is to provide light to a hallway in this area. The appellants and observers have raised concerns about overlooking and impact on privacy arising from this window. There are four houses that back onto the laneway immediately to the north-west of the site. The proposed window faces the rear of those houses. The appellants and the observers reside in two of the houses to the north-west of the site.

- 8.15 The p.a. did condition that this window be fitted with obscure glass (ref: Condition No. 3).

- 8.16 In the circumstances, and given the specific function of this window vis-à-vis provision of light to a hallway (as opposed to a habitable room), I am of the opinion that the appellants' and observers' concerns could be further addressed by the redesign of the window at this location. In that regard I would recommend that the Board apply a condition requiring that this window be redesigned so that its sill height internally is not be less than 1.8 m off first floor level (it may require widening of the opening to allow for more light to compensate).

Appropriate Assessment

- 8.17 Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise.

9.0 CONCLUSIONS AND RECOMMENDATION

I recommend that the Board grant permission for the proposed development subject to the conditions below.

REASONS AND CONSIDERATIONS

Having regard to the residential zoning objective for the area and the pattern of development in the vicinity, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not adversely impact on the architectural character of Rosemount Road, would not be prejudicial to public health, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, 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 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The external brick finish to be used in the extension shall be consistent in colour and texture with the brick finish to the existing dwelling on the site. Prior to the commencement of development the applicant shall submit to, and agree in writing with, the planning authority, a sample of the brick to be used.

Reason: In the interests of visual amenity and to protect the character of this residential conservation area.

3. The proposed window at first floor level in the north-west facing elevation in the existing two-storey return extension shall be redesigned so that its sill level internally shall be not less than 1.8 metres above the finished first floor level. Prior to the commencement of development the applicant shall submit to, and agree in writing with, the planning authority plans, sections and elevations at a scale of not less than 1:100 indicating compliance with this condition.

Reason: To obviate overlooking of the private open space of the existing dwellings located to the north-west of the application site.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Tom Rabbette
Senior Planning Inspector
31st August 2016