



An
Bord
Pleanála

Inspector's Report PL 29N.247039

Appeal Reference No:

PL 29N.247039

Development:

RETENTION: Change of use of existing detached single-storey building into a one bedroom with study residential dwelling (55.4 sq.m) with the addition of a small single-storey extension with flat roof to side of building and installation of two sky light windows on existing slate roof and one sky light window to flat roof to the rear of 58 St. Alphonsus Road Upper, with frontage onto St. Brigid's Road. To include for vehicular access off the rear laneway with one car parking space and all associated site development works.

Planning Application

Planning Authority:

Dublin City Council

Planning Authority Reg. Ref.:

2961/16

Applicant:

Kevin Gormley and Conal Davey

Planning Authority Decision:

Refuse Retention Permission

Planning Appeal

Appellants:

Kevin Gormley and Conal Davey

Type of Appeal:

First Party – V - Refusal

Observers:

Ken Broughall and Joseph McGuinn

Date of Site Inspection:

25th October 2016

Inspector:

Tom Rabbette

1.0 SITE LOCATION AND DESCRIPTION

The application site is located along St. Brigid's Road Upper and to the rear of No. 58 St. Alphonsus Road Upper in Drumcondra, Dublin 9. It appears that it formed part of the residential site of No. 58 St. Alphonsus Road in the past but it is now a separate parcel of land. The application site has a stated area of 93 sq.m. St. Brigid's Road runs along the eastern boundary of the site, there is a laneway running along the southern boundary and No. 60 St. Alphonsus Road borders the site to its west. There is a detached single storey structure on the site that appears to be in residential use, it seems that this building was originally constructed for use as a domestic garage. There is a vehicular gate entrance to the site off St. Brigid's Road to the east, there is also a roller shutter vehicular entrance door in the southern site boundary off the laneway. There is a gate further west of the site along this lane that restricts access to the remainder of the lane which serves the rear a number of the residential properties that front onto St. Alphonsus Road Upper.

2.0 PROPOSED DEVELOPMENT

The applicants are seeking retention permission for the change of use of the existing single storey building on the site to use as a dwelling which accommodates, *inter alia*, a living room, bedroom and study. The main original structure on the site has a pitched roof, this structure has been extended along its northern side and this extension has a flat roof finish. The retention permission includes for two skylights in the pitched roof element and one in the flat roof extension. The application as originally submitted to the p.a. indicated one on-site car parking space which is to be accessed off the lane to the south via the roller shutter door. The structure has a stated floor area of 55.4 sq.m.

3.0 PLANNING HISTORY

PL 29N.221498 (5636/06): The Board upheld a p.a. decision to refuse permission for a change of use of existing detached single-storey garage to rear into a one-bedroom residential dwelling with the addition of a small single-storey extension to side of building.

4773/05: The p.a. refused permission for demolition of garage and the construction of a two-storey house on the site.

1359/05: An application for the demolition of the garage on the site and the construction of a two-storey structure containing 2 no. 2-bedroom apartments was withdrawn.

2390/98: Application withdrawn for permission to convert garage to single dwelling with vehicular access.

E0602/12: Reference is made on file to the opening of an enforcement file in relation to the site.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

Planner's Report dated 08/07/16:

- Refusal recommended for 3 reasons.

Engineering Department Drainage Division Report dated 28/06/16:

- Additional information required.
- It is not permitted to build over the public sewer.

Objections/observations: Objections/observations on file addressed to the p.a. make reference to the following: unauthorised use of garage; disregard for previous planning refusals; sewer under extension; development address; damage to footpath; creation of gateway; Planning Enforcement Notice; length of time structure has been used for residential use; insufficient private open space; undermines architectural quality of street; development out of context; detrimental to the street; inconsistent with zoning; unauthorised development on the site, and blocking of adjacent lane.

4.2 Planning Authority Decision

By Order dated 12/07/16 the planning authority decided to refuse permission for two reasons as follows:

1. The development, by reason of its design, scale and location, constitutes an incongruous form of development within the context of the surrounding streets, and is out of character with the pattern of development in the area and seriously injures the visual amenities of the area and of property in the vicinity. The development proposed for retention is, therefore, contrary to the proper planning and sustainable development of the area.
2. Having regard to the limited size and restricted nature of the site and the deficient of private open space and the single aspect nature of the house with living space mostly illuminated by velux windows, it is considered that the development contravenes the standards for open space and residential amenity as set out in the 2011 Development Plan and results in overdevelopment of the site. The development seriously injures the amenities and depreciates the value of property in the vicinity and results in a substandard form of development for occupants. The development is, therefore, contrary to the proper planning and sustainable development of the area.

5.0 GROUNDS OF APPEAL

The contents of the first party's grounds of appeal can be summarised as follows:

- The site has accommodated a residential dwelling since 2004, the applicants have simply tried to improve the amenity of this home by extending it to provide an extended living space.
- The p.a. is aware that this habitable dwelling has been occupied (as confirmed during enforcement proceedings) and the home on site will continue to be occupied regardless of the outcome of the appeal, albeit potentially with a reduced floor space and poorer level of amenity.
- The applicants have merely tried to improve the living accommodation to more favourable contemporary standards while at all times being mindful of restraining the appearance from neighbouring properties and the front street.
- Turning down permission for this extended dwelling will simply result in the applicants having to knock down the extended areas and reverting to using 37 sq.m. dwelling instead of a 55 sq.m. residential home.
- The extended elements of the dwelling are built up to the north-eastern boundary wall and are below the capping stone.
- The extended area is concealed and not visible from the front street.
- There is extensive precedent supporting this mews development, considering the extent of identifiable new mews, old mews, infill and backland housing in the immediate vicinity.
- The scheme has been designed to significantly improve living standards, providing storage, improved natural lighting and private amenity space.
- The design is mindful of the need to respect the amenities of neighbouring properties and to screen the development from views along St. Bridget's Road Upper.
- The applicants' agent has prepared revised drawings showing minor amendments to the scheme that could be accommodated by condition and addressing some of the concerns raised during the assessment of the application.
- The back laneway serving the rear of properties along St. Alphonsus Road Upper is gated and is not a public right-of-way.
- The property currently comprises a pedestrian access and a vehicular access off St. Bridget's Road Upper.
- The historical urban grain of the neighbourhood has evolved considerably overtime to incorporate a wide array of infill and mews-style housing.
- The site is highly accessible (being close to Drumcondra Rail Station and a QBC) and in an area where planning policy on all tiers supports increased residential densities.

- The development description should read as retention of a single-storey side extension to an existing established residential studio mews dwelling to create a one-bedroom residential home.
- The subject site would have originally formed part of the rear garden to no. 58 St. Alphonsus Road Upper.
- At some stage the subject site was separated and a new property parcel created.
- As provided to DCC during enforcement proceedings, the available records reveal that the site has been habitable and occupied since at least 2004.
- The rooms in the new extension are above minimum standards and provide suitable living quarters.
- It is difficult to understand how the proposals can be considered incongruous from the surrounding streets, given the concealed nature of the extension and the existence of much larger outbuilding structures and extensions in various neighbouring gardens.
- The applicant submits a map showing the variety of 'infill' and other housing developments in the neighbouring Drumcondra area.
- It is difficult to understand how the retention of such a minor infill extension associated with the existing building can be reasonably argued to impact on the visual amenities of the area, the extension is quite minor and the pitched-roof dwelling has been in-situ for decades.
- The layout of the dwelling ensures there is no overlooking of neighbouring properties.
- The site area (93 sq.m.) for the development should be defined by the ability to provide a suitable level of accommodation and a commensurate level of amenities including private open space.
- Not every person requires a three-bedroom house with rear garden or indeed can afford same.
- The proposed development provides an appropriate level of amenity required under planning policy.
- At c. 30 sq.m., the amenity space that can be provided on site would meet the minimum private amenity space standard required under the CDP.
- Although single aspect, there is significant light entering the house.
- The applicant highlights the additional scope for a high-level window on both the south and west facing elevations.
- The subject house is a minimum of 55.4 sq.m. which is greater than the minimum side requirement for a one-bedroom apartment based on latest Departmental Guidelines.
- While the Guidelines relate to apartments, they do give a suitable guide as to the appropriate scale of a home in the subject context.
- The CDP standards in relation to private amenity space for each residential unit will be well-exceeded with an average of 15 sq.m. provided per bed space.

- The proposed development provides for the best quality design and residential amenity for the applicants on a constrained site.
- It is considered more appropriate to lose the on-site car parking space and have this revert to amenity space for the home.
- A drawing is submitted indicating this change, it also incorporates some minor amendments to increase natural light and to provide on-site refuse collection area and revised boundary finishes.
- The development is in compliance with CDP standards.
- The development is sympathetic with the existing pattern of development in this inner-city location.
- It cannot be reasonably argued that the subject proposals could set precedent for similar developments in the area, given the extent of precedent highlight and the fact that this is an established residential property.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

In a letter to the Board dated 11/08/16 the planning authority indicate they have no further comment to make and refer the Board to the planner's report already on file.

6.2 Observations on grounds of appeal

Ken Broughall and Joseph McGuinn, St. Alphonsus Road, Drumcondra, Dublin 9.

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

- The property was traditionally a garage only but has become a dwelling over recent years with tenants occupying the premises.
- It was also used as a business premises in the past.
- The premises was being used as a dumping ground in 2010.
- The developers have sought permission on a number of occasions, it was refused.
- The developers decided to carry out the work anyway.
- Blatant disregard for previous refusals.
- Sewer under extension.
- Breaking of public footpath, removal of granite kerbs to facilitate vehicular entrance without permission.
- Works on site carried out without permission.
- Issuing of Planning Enforcement Notice.

7.0 POLICY CONTEXT

The statutory plan in place at the time of the planning authority's decision was the Dublin City Development Plan 2011-2017. The authority has since adopted a new Development Plan for the area. The Dublin City Development Plan 2016-2022 has been adopted and came into effect on the 21/10/16.

The site is located in an area where the land use zoning objective is 'Z1 – to protect, provide and improve residential amenities' as indicated on Map E of the new CDP. Chapter 5 of the written statement is titled 'Quality Housing'. Chapter 16 addresses Development Standards, including: section 16.10.2 'Residential Quality Standards – Houses'; section 16.10.3 'Residential Quality Standards – Apartments and Houses'; section 16.10.9 'Corner/Side Garden Sites'; section 16.10.10 'Infill Housing', and section 16.10.16 'Mews Dwellings'.

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 new statutory development plan for the area, in my opinion the main issues arising are as addressed hereunder.
- 8.2 I draw the Board's attention to the planning history pertaining to the site. I note that includes a decision by the Board under PL 29N.221498 (5636/06) for the change of use of existing detached single-storey garage to rear into a one-bedroom residential dwelling with the addition of a small single-storey extension to side of building and installation of skylight windows. The Board refused for three reasons. I consider the concerns raised in the Board's decision on that application to be still relevant in the context of the current application.
- 8.3 The previous Board's decision on PL 29N.221498 related to a planning permission, the current application is for retention permission for a development not wholly dissimilar to the previously refused scheme.
- 8.4 In the current application the applicants are seeking permission to retain the change of use of a single storey building, previously a domestic garage that would appear to have been related to the dwelling at No. 58 Alphonsus Road, into a one-bedroom dwelling with a study. The application site no longer forms part of the original residential site at the aforementioned No.58.
- 8.5 The site has frontage onto St. Brigid's Road to the east. The dominant dwelling type on this road is the two-storey terraced dwelling on relatively large plots with the terraces fronting onto the public road and creating a strong sense of place. The applicants are effectively proposing a single-storey dwelling on a very constrained site (of stated area 93 sq.m.) with poor

engagement with this road. The dwelling, with its poor aspect, is introverted. The elevational treatments onto both St. Brigid's Road to the east and the laneway to the south are poor, they contribute nothing to the public domain. The vehicular entrance off St. Brigid's Road as per the original submission to the p.a. states that the gate is to be blocked up yet appears on the drawings. It is unclear as to what is being proposed with this gate in the drawing submitted with the grounds of appeal. The garage roller shutter door off the laneway to the south was to remain in use in the original submission to the p.a. but in the amended scheme in the grounds of appeal it is to be decommissioned (or 'blocked'), yet it still appears on the elevation drawing. (There is another vehicular door in the laneway elevation, this appears to be the original door into the garage, this appears to be permanently shut/sealed.) On Alphonsus Road to the north of the site, the dominant dwelling typology is the two-storey terraced dwelling dating from the late C19th/early C20th of brick finish on generous plots fronting onto the street. The applicants' grounds of appeal makes reference to various mews-type developments and other modern insertions in the historic fabric in the wider Drumcondra area. I remain unconvinced by the applicants' reference to those developments. I do not consider these a direct 'like-with-like' comparison. Many of the examples given are purpose-built residential structures that formally address the public domain and/or are well-integrated with their immediate historic context. The applicants' proposal is poorly integrated with its historic context, it is not a purpose-built dwelling, it is a converted late C20th single-storey domestic garage. It does not read as a mews-type dwelling, either contemporary or historic, it still has the appearance of a domestic garage. Section 16.10.16 of the CDP refers to development standards concerning mews dwellings. It states, *inter alia*, that 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, and that the design of such proposals should represent an innovative architectural response to the site. The proposal fails to meet those standards, in my opinion. The design and the scale of the proposal given its context constitutes an incongruous form of development. It is out of character with the pattern of development in the area. That section 16.10.16 also indicates that the car parking should be in off-street garages or courtyards, the amended scheme submitted with the appeal removes the car parking space off the site to make way for private open space provision. That open space provision should be provided to the rear of the mews building according to section 16.10.16, the applicant's open space is not proposed to the rear of the building. I note also that section 16.10.9 of the CDP relating to the development on 'Corner/Side Garden Sites' and section 16.10.10 relating to 'Infill Housing', both put emphasis on respecting the existing character of the receiving environment, the proposed development fails to appropriately respond to its context, in my opinion. The concerns raised in the Board's Reason No. 1 on PL 29N.221498 almost 10 years ago are equally applicable to this current proposal, in that regard I note the p.a. Reason No. 1 in the current application is very similar to that previous

refusal by the Board. I consider the Board's Reason No. 1 in PL 29N.221498 to be still relevant in the context of the current application.

- 8.6 The living room in the current proposal, as originally submitted to the p.a., has no window, only 2 roof lights and a doorway off the proposed car park area. Section 16.10.2 'Residential Quality Standards – Houses' of the CDP, states, *inter alia*, that living rooms shall not be lit solely by roof lights. In the changed proposal as per the appeal submission, a high-level window is added to the laneway elevation. Given this very poor aspect (in both layouts) I would have concerns that this would result in a living room of substandard amenity. The proposed study has a window out onto what is referred to as a 'yard' in the submitted drawings but on closer inspection is an internal hallway with a roof light at its western end, this again constitutes a very poor form of amenity. The development if granted would set an undesirable precedent for similar developments in the vicinity. It is not just an issue of the dwelling being effectively of single aspect, but also an issue of the quality of that single aspect. This is a proposal for a dwelling on a public street yet none of the habitable rooms provide views of that street. The restricted size of the site is impacting on the overall design of the proposed dwelling, what was sufficient to accommodate a domestic garage is clearly proving problematic when it comes to providing a dwelling of appropriate modern amenity standards. I would recommend refusal in relation to these matters also.
- 8.7 There is an existing combined sewer indicated on the submitted drawings as running underneath the subject structure towards the southern end of the site. There is a report on file from the Drainage Division (dated 28/02/16) of the p.a. raising concerns in relation to the application. The Drainage Division hold that there is a lack of adequate information concerning the drainage on the site. They refer to the existing public sewer on the land and comment that it is not permitted to build over this sewer. They state that the exact location of this pipeline must be accurately determined on site prior to construction work commencing and that no additional loading should be placed on the sewer. It concludes stating that permission should be withheld until satisfactory drainage information is submitted and approved. Under PL 29N.221498, Reason No. 3, the Board refused permission on the grounds of it not being satisfied that the proposed development would not be prejudicial to public health having regard to the existence of the public sewer on or in the immediate vicinity of the site, I would recommend a similar reason for refusal in relation to the current application.
- 8.8 The applicants' agent in the grounds of appeal states that it is their opinion that that the development description should read as retention of a single-storey side extension to an existing established residential studio mews. The submission goes on to quote a letter from the p.a. dated 06/04/15 saying that "the Council accepts that on the basis of information currently available that the building has been in habitable use over seven years...". That in itself does not confer permission for a change of use in relation to the structure, in

any event, that is a matter for the p.a. as the Enforcement Authority in the first instance. Notwithstanding the applicants' agent's comments as to what the development description should be, the development description as per the application is clear in that a change of use to residential use of the entire structure is being proposed. Should the Board consider granting permission for the amended scheme submitted with the grounds of appeal, it should note that the application is for 'retention' but a number of the elements in the amended scheme are not existing (e.g. the high level window and the on-site green open space provision).

- (8.9 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, I consider that no appropriate assessment issues arise.)

9.0 CONCLUSIONS AND RECOMMENDATION

I recommend that the Board refuse retention permission for three reasons as indicated below.

REASONS AND CONSIDERATIONS

1. The proposed development would, by reason of its design, scale and location, constitute an incongruous form of development within the context of the surrounding streets, which would be out of character with the pattern of development in the area and seriously injure the visual amenities of the area and of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the restricted aspect of the proposed dwelling, where the living room is to be served by a high-level window and roof lights only, and where the study has no window to an external area, and also having regard to the restricted size of the site, it is considered that the proposed development would provide a substandard quality of residential environment for the residents and would set an undesirable precedent for similar developments in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. On the basis of the submissions made in connection with the application and appeal, in particular regarding the existence of a public sewer on the site, the Board is not satisfied that the proposed development would not be prejudicial to public health.

Tom Rabbette
Senior Planning Inspector
26th October 2016