



An
Bord
Pleanála

Inspector's Report PL29S.248445.

Development	Demolition of existing single storey dwelling house and construction of a 3 bedroom two storey dwelling with attic conversion and associated works.
Location	35 Wellington Lane, Dublin 4.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	4265/16.
Applicant(s)	Lexicon Systems.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	1. James Crook. 2. Bobby Mc Loughlin.
Observer(s)	None.
Date of Site Inspection	16 th of August 2017.
Inspector	Karen Hamilton.

1.0 Site Location and Description

- 1.1. The subject site (No 33) includes a single storey mews dwelling facing onto Wellington lane, within the inner suburbs of Dublin 4. Wellington Lane is a narrow laneway and includes both original gate lodges and modern mews dwellings fronting on along both sides, many with private vehicular access. There are double yellow lines along both sides of the lane.
- 1.2. No 33 is located directly adjacent to the west of a two storey detached dwelling (No 37) and east of single storey dwelling, each with private vehicular access and private rear gardens. The site is located to the rear of No 33 Wellington Place, a protected structure and would originally have been within the curtilage of the dwelling.

2.0 Proposed Development

- 2.1. The proposed development may be summarised as follows:
 - Demolition of single storey dwelling (88m²),
 - Erection of new two storey 3-bedroom dwelling (211m²) as associated works.

3.0 Planning Authority Decision

3.1. Decision

Decision to grant permission with 10 no conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner refers to the previous refusal on the site, the design of the dwelling, the impact on the adjoining residential properties and the report reflects the decision to grant permission following the submission of additional information on the following:

- Information on the removal of any of the site boundary,
- Information on the provision of off street parking.

3.2.2. Other Technical Reports

Roads and Traffic Department- No objection subject to conditions.

Drainage Division- No objection subject to conditions.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Two submissions were received from the same appellants and the issues raised have been summarised in the grounds of appeal.

4.0 Planning History

PL29S.243468 (Reg Ref 239714)

Permission refused for the demolition of an existing dwelling and construction of a new 4-bedroom dwelling, attic conversion and associated works for reasons of a dominant and visually overbearing design and negative impact on adjoining properties by overlooking and overshadowing.

5.0 Policy Context

5.1. **Architectural Heritage Guidelines for Planning Authorities**, 2004. Development guidelines for Protected Structures and Areas of Architectural Conservation.

Section 3.10.1: Criteria for assessing proposal with demolition.

5.2. **Dublin City Development Plan 2016-2022**

The site is zoned in Z2 "*To protect and/or improve the amenities of residential conservation areas*".

Demolition and Re-use of Housing

Section 5.5.8 The demolition of existing housing is generally discouraged on sustainability grounds and it may lead to a loss of residential accommodation and streetscape character.

QH23: To discourage the demolition of habitable housing unless streetscape, environmental and amenity considerations are satisfied, and a net increase in the number of dwelling units is provided in order to promote sustainable development by making efficient use of scarce urban land.

Residential Quality Standards

Section 16.10.2: Residential Quality Standards for dwellings include but not restricted to separation distance of 22m to rear between first floor rear windows, open space provision of 10m² per bed space.

Mews Dwellings

Section 16.10.16 Stone/brick coach houses on mews laneways are of national importance and there is a requirement to retain and conserve all surviving examples, particularly in relation to their form and profile.

Development is confined to single family units, two storeys in height. There is a need to provide one off street carpark and sufficient rear open space.

Minimum width of 7.5m and 15 m² per bed space of rear open space required.

Minimum distance of 22m from rear building.

The subject site to the rear of a **protected structure**, therefore the following policy and guidance of the development plan is relevant.

Section 11.1.5.8: Demolition of Protected Structures and Buildings in Architectural Conservation Areas. The demolition of structures which make a positive contribution to protection structure or conservation area will be restricted.

Appendix 24: Protected Structures and Buildings in Conservation Areas.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal have been received from neighbouring residents which may be summarised as follows:

- The elevational views do not show the position of the two east-facing windows at no 33 which would be affected.

- The kitchen window at No 33 will be partly shadowed. A right- to- light has been lodged with the Land Registry.
- The east facing windows at No 33 will be completely blocked.
- The developers' shadow analysis "Zone 1" hides the reduction in light from the east-facing window and a new wall 1m away will hide the sunlight in the morning.
- The proposed development will cause a loss of amenity, daylight, sunlight and some privacy over the rear garden of the adjoining property.
- The parity wall between No 35 and 33 should be left undamaged and any foundations should not encroach outside the site.

6.2. Applicant Response

An agent on behalf of the applicant has submitted a response to the grounds of appeal which may be summarised as follows:

- The proposed modest dwelling is in keeping with the predominantly two storey residential character of Wellington Lane.
- The applicant has worked to overcome the issues raised in the previous refusal and has reduced the depth and mass to minimise impact on adjoining properties.
- The issue of overshadowing has been addressed and the sunlight and daylight access analysis report shows the impact of the proposed development on east-facing windows at No.33 Wellington Lane. The south facing patio windows will allow sufficient light into this room in No 33.
- The stone garden wall will remain undamaged and the proposed development will not trespass onto adjoining property.

6.3. Planning Authority Response

A response from the planning authority refers to the planners report for justification on the decision.

6.4. Observations

None received.

7.0 Assessment

7.1. The main issues of the appeal can be dealt with under the following headings:

- Principle of Development
- Residential Amenity
- Built Heritage
- Development Standards
- Appropriate Assessment

Principle of Development

7.2. The proposed development includes the demolition of a single storey dwelling and construction of a two storey 3-bedroom dwelling. Policy QH23 of the development plan states that the demolition of a habitable house will be discouraged unless streetscape, environmental and amenity considerations are satisfied, and a net increase in the number of dwelling units is provided in order to promote sustainable development by making efficient use of scarce urban land. I note the proposed development will provide a larger dwelling with an additional 2 bed spaces by the provision of an upper floor, therefore I consider it complies with this policy.

7.3. Planning History: A similar development for a 3 storey 4-bedroom dwelling was previously refused permission (29S.243468) for reasons of overdevelopment of the site and overbearing, therefore having a negative impact on the adjoining properties. The refused design included two building blocks, separated in the middle by a courtyard, whereas the submitted amended design includes one smaller dwelling with a reduction in the height and length, and overall design in an attempt to prevent any overlooking and overbearing on the adjoining residential properties, the impact of which has been addressed below.

7.4. Therefore, subject to complying with other planning requirements as addressed in the following sections, I consider the principle of the proposal is acceptable.

Residential Amenity

- 7.5. The site is located to the east of a two storey dwelling and to the west of a single storey dwelling. The existing dwelling is in line with the building line of No 37, to the east and the proposed two storey dwelling is c. 6m forward of the existing dwelling of No 37. No 33, to the west, fronts directly onto Wellington Lane and is set forward by approx. c 12m from the existing dwelling and c. 6m from the proposed front building line. I have assessed the impact of the proposed development on the residential amenity of those dwellings directly adjoining the site as I do not consider there are any further dwellings along Wellington Lane which may be impacted. The amenity of No 33 Wellington Place is dealt with under built heritage.
- 7.6. No 37 Wellington Lane: The proposed dwelling is located c.6m to the front of No 37 and directly adjoins the two storey side element of this dwelling, there are no windows proposed along the western gable. I note No 39 is entirely set forward of No 37 and I do not consider it has a negative impact on the setting of No 37. The first floor does not extend past the rear building line of No 37 and there are no windows proposed to the rear elevation which will directly overlooking the rear garden space. The proposed dwelling is to the west of No 37, and will be set forward c 6m, therefore there will be an element of overshadowing to the front of No 37 in the late evening, although I do not consider this will have a significant negative impact on the residential amenity of this property. Having regard to the location and design of the proposed development I do not consider there will be a significant negative impact on the residential amenity of No 37.
- 7.7. No 33 Wellington Lane: No 33 Wellington Lane is unusual in comparison to other mews dwellings along the lane, where it is single storey, fronts directly onto Wellington lane and the facade of the dwelling is orientated to the east of the site along a narrow access lane. The front building line of the proposed dwelling is currently set back c.11m from the front of No 33 and the setback will be decreased to c. 6m, behind the exiting entrance/ kitchen window. The grounds of appeal argue the location of the first floor along the east of no 33, adjacent to a window serving the kitchen and main living area will have a negative impact on the provision of sunlight into this room. Shadow projection drawings submitted illustrate an increase in shadow projection along the east of no 33 mid-day during the summer. A submission from the applicant has stated that the room is also served by southern patio doors

and the proposed development will not impact this main source of daylight. Upon site inspection it was evident that whilst there may be no direct provision of sunlight into the living area, they were served by light from the eastern side of the dwelling, although the front building line will not extend in front of the kitchen window, therefore I do not consider it will have a negative impact.

- 7.8. The front building line will extend in front of the eastern window serving the living room although I note the inclusion of double patio doors to the south of the living room, the existing 2 m high wall directly adjacent to the window along the east of No 33 and the separation distance of c 1m from the side, the set back of the first floor to the rear of the dwelling and I consider the first floor of the proposed development would not have significant negative impact by way of overshadowing into the living space of No 33.
- 7.9. Part of the rear return on the first floor has been set back c. 2.5m from the western boundary which I consider sufficient to prevent any overbearing on the rear amenity space of No 33. A submission on the planning application from No 33 raised concerns over the possible extension on the first floor, by way of exempted development, which would have a further negative impact on the rear amenity space of No 33. I consider the set back is required to prevent any overbearing, therefore I consider it reasonable to include a condition restricting the use of exempted development on the site.

Built Heritage

- 7.10. The proposed development includes the demolition of an existing single storey dwelling and construction of a new two storey dwelling. The existing mews building is located to the rear and within the curtilage of a protected structure, no 33 Wellington Place and the site is included within the Z2 zoning, where it is an objective to protect those residential properties within a conservation area. There are a range of mix of styles of modern mews dwellings along Wellington Lane.
- 7.11. Section 11.1.5.8 of the development plan provides guidance on the impact of development on protected structures. I note the protected structure is located over 22m from the rear of the mews dwelling and is separated by a 2m high block wall. The mews dwelling is not visible from the front of the protected structure, nor is the protected structure visible from the subject site. I do not consider the existing

dwelling has a negative impact on the protected building or the conservation area and I consider an increase in the height of the dwelling for an additional floor will be in keeping with those existing two storey dwellings along the lane and is of a sufficient distance from the rear of the protected structure.

- 7.12. Therefore, based on the location of the proposed development, the design and the pattern of development along Wellington Lane, and the existing 2m high boundary treatment, I do not consider there would be no negative impact of the appearance and setting of the protected structure at No 33 Wellington Place or the surrounding conservation area.

Development Standards

- 7.13. The proposed development includes the demolition of a single storey dwelling and construction of a two storey dwelling. As stated above the principle of the demolition is acceptable as the sustainable use of land is promoted. Section 16.10.16 provides guidance for mews dwellings and requires the provision of one- off street car parking space, which has been provided. Section 16.10.2 of the development plan provides guidance on the residential quality standards for dwellings and includes, but not restricted, to the provision of a separation distance of 22m to the rear between first floor rear windows and open space provision of 10m² per bed space. The proposed development is for a 3 bed dwelling (5 bed spaces) and the rear private open space is 90m² and as stated above the rear windows are over 22m from opposing windows in No 33 Wellington Place. Having regard to the open space, vehicular access and separation distance I consider the proposed development complies with the development plan standards.

Appropriate Assessment

- 7.14. Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance 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 the conservation objectives of any European site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

Having regard to the Z2 residential zoning objective for the area, the policies and objective of the Dublin City Council Development Plan 2016-2022, the pattern of development along Wellington Lane and the location and design of the proposed dwelling it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the residential amenities of the area or of property in the vicinity or have a negative impact on the character and setting of a conservation area or a protected structure. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of

Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

3. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

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

Reason: In the interest of public health

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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Karen Hamilton
Planning Inspector

22nd of August 2017