



An
Bord
Pleanála

Inspector's Report PL 06D.249170

Development	Extension to house and reconstruction of annex to provide an apartment
Location	No. 22 Newtown Avenue (Protected Structure), Blackrock, County Dublin
Planning Authority	Dún Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.	D17A/0547
Applicant(s)	Seán & Fidelma Ó Siocháin
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Seán & Fidelma Ó Siocháin
Observer(s)	Eleanor O'Donovan
Date of Site Inspection	7 th December, 2017
Inspector	Kevin Moore

1.0 Site Location and Description

1.1. The site of the proposed development is in Blackrock Village, County Dublin with frontage onto Newtown Avenue. There is a late 18th / early 19th century three-storey over basement terraced period residence on the site. A two-storey over basement coach house is attached to the south-eastern side of the main house, which fronts directly onto the adjoining public footpath. The property has a deep back garden which extends to the Dart line running to the rear of the site. The Carysfort-Maretimo Stream runs from south-west to north-east along the site's south-eastern boundary, entering a culvert to the rear. The ground level of the site falls from the front to the rear. No. 22 is adjoined to the north-west by two similar protected structures, each of which have coach houses that project beyond the front of their main houses. An apartment development, Rockwell Cove, lies to the west and a residential development, Maritime Gardens, is located to the east.

2.0 Proposed Development

2.1. The proposed development comprises:

- conservation and construction works to undo interventions undertaken between 1978 and 2012,
- restoration of elements of the early layout of the house and extension of other areas of the main house to facilitate its future use as a family residence,
- demolition and rebuilding of the existing annex/garage to facilitate reconstruction of the south-eastern gable of the main house and the construction of containment works to the Carysfort-Maretimo Stream,
- reconstruction of the annexe to reinstate residential accommodation at basement level,
- provision of vehicular access to the rear garden at ground floor level in order to provide off-street parking in the rear garden, and
- the provision of a two-bedroom apartment at first floor and mansard floor levels.

The overall development would provide a floor area of 422.4 square metres, with structures to be demolished comprising a floor area of 195.9 square metres.

- 2.2. The application included an Infrastructure Design Report, a Condition and Conservation Assessment and Impact Statement Report, an Outline Specification of the Work to be done and materials to be used, and 3D images.

3.0 Planning Authority Decision

3.1. Decision

On 9th August, 2017, Dún Laoghaire-Rathdown County Council decided to refuse permission for the development for one reason relating to the adverse impact on the existing protected structure on the site and on adjoining protected structures arising in particular from the demolition of the existing annex/garage and from the height, massing and design of the proposed two and a half storey over basement extension to the side/front of the house.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the site's planning history, departmental reports received, and development plan provisions. The assessment of the Conservation Officer was repeated. It was submitted that the planning authority is not satisfied that the proposed demolition of the annex, being part of the protected structure, constituted 'exceptional circumstances' and that it would be contrary to Policy AR1 of the County Development Plan. The side extension was not seen to injure residential amenity by way of overlooking and overshadowing. However, it was submitted that the proposed extension to the front/side of the main house, by reason of its height, massing and design, would result in an overly dominant form of development in the streetscape and would impact on the character and setting of the protected structure and adjacent protected structures. A refusal of permission for one reason was recommended.

3.2.2. Other Technical Reports

The Conservation Officer welcomed the proposed revisions to the main house but considered clarification was required in relation to the ceilings (i.e. they should be retained and repaired), floors (retention of original material to be sought), and window replacement. With regard to the demolition of the coach house to the side of the main house, it was noted that this forms part of the protected structure and that its demolition can only be permitted in exceptional circumstances. It was considered that the structure could be stabilised and sympathetically adapted to negate the need for its demolition. Further to this, it was submitted that the proposed new structure, being larger in scale and height, would alter the relationship between the mews and main house and would adversely impact on the character and setting of the protected structure. It was concluded that the proposal would be contrary to best conservation practice and to Policy AR1 of the development plan, relating to protected structures.

The Drainage Engineer requested further information relating to flood risk and surface water management.

The Transportation Planning Engineer noted the overall development would require 5 car parking spaces in accordance with development plan requirements and submitted that parking spaces had not been clearly designated to the separate units. Further information was sought in relation to parking provisions, accommodating future electric charging points, vehicular access visibility, bicycle parking, and a construction management plan.

4.0 Planning History

The site's planning history includes the following:

[ABP Ref. PL 06D.232651](#)

Permission was refused by the Board for the demolition of an existing two-storey element over basement to the side and construction of a new two-storey extension to the side and part of the front of the main building over the existing basement with new care home accommodation and new vehicular and pedestrian access to the rear of the site at ground floor. It also included the construction of 7 apartments within a block to the rear of the site. The reason for refusal related to the extent of demolition of the original mews structure and the form and nature of the proposed

replacement mews building creating a visually prominent and incongruous feature which would detract significantly from the architectural integrity of the house and its setting and the visual amenities of the adjoining terrace and streetscape.

5.0 Policy Context

5.1. Dún Laoghaire-Rathdown County Development Plan 2016-2022

Zoning

The site is zoned 'A' with the objective "To protect and/or improve residential amenity."

Built Heritage

No. 22 Newtown Avenue is listed as a protected structure in Appendix 4 of the Plan.

Policies include:

Policy AR1: Record of Protected Structures

It is Council policy to:

- i. Include those structures that are considered in the opinion of the Planning Authority to be of special architectural, historical, archaeological, artistic, cultural, scientific, technical or social interest in the Record of Protected Structures (RPS).
- ii. Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- iii. Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the Department of the Arts, Heritage and the Gaeltacht 'Architectural Heritage Protection Guidelines for Planning Authorities' (2011).
- iv. Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be summarised as follows:

- The proposed scheme of restoration, or the need for it, has not been given due weight by the Council and the Council's decision did not take adequate account of the current structural condition of the house and its annex. The Condition and Conservation Report deals comprehensively with the relevant issues.
- The existing annex is a detracting feature and its footprint exceeds that of the house.
- The proposal will revitalise the historic context.
- The height of the annex will not exceed the height that might be achieved if the original pitched roof profile was reinstated. The total habitable floor area of the annex does not exceed the present internal space. The height of the proposed new parapet to the front of the annex will be the same as the parapets on the former coach houses of adjoining properties. An adjustment can be made to the scale, height or elevational treatment of the annex and a drawing is submitted showing how elevational treatment could be altered.

6.2. Planning Authority Response

The planning authority stated that it had given due consideration to the applicant's reports submitted with the application and that the assessment had taken into account changes introduced in the new scheme.

6.3. Observations

Eleanor O'Donovan, No. 10A Newtown Avenue, raised concerns relating to the potential structural damage to her property arising from the proposed development.

7.0 **Assessment**

7.1 Introduction

7.1.1 The principal planning issue in this appeal centres on the proposal to remove the annex and to replace it with a new side/front extension. The principle of the renovation and conservation works proposed for the main house are considered appropriate and acceptable. The proposed development would not be seen to have significant adverse impacts on the residential amenities of adjoining properties. It is considered that parking and drainage issues could reasonably be addressed in agreement with the planning authority. The matters raised by the observer will be addressed further.

7.1.2 I propose to address the planning issues relating to this appeal under the following headings:

- The proposed development in the context of policy and guidance,
- The form and character of the proposed extension to the side/front, and
- The structural impact on No. 10A Newtown Avenue.

7.2 The Proposed Development in the Context of Policy and Guidance

Dún Laoghaire-Rathdown County Development Plan 2016-2022

7.2.1 The proposed development includes the demolition and replacement of the annex to the main house at No. 22 Newtown Avenue. No. 22 is listed in Appendix 4 of the current Dún Laoghaire-Rathdown County Development Plan, i.e. the Record of Protected Structures (RPS No. 216). It is apparent from the planning authority's considerations on the application that this includes the annex to the front of the main structure. There appears to be no dispute that the annex forms part of the protected structure.

7.2.2 I note, under Policy AR1 of the Plan, that it is the planning authority's policy to protect structures included on the Record of Protected Structures from any works that would negatively impact their special character and appearance. Furthermore, it is policy to ensure that any development proposals to protected structures, their curtilage and setting shall have regard to the Department of the Arts, Heritage and the Gaeltacht *Architectural Heritage Protection Guidelines for Planning Authorities* (2011). The latter shall be addressed further below. It is reasonable, however, to determine that the proposed demolition of the annex constitutes demolition of part of a protected structure. From the report of the Council's Conservation Officer, it is evident that the Officer considers that conservation works can be undertaken to retain the annex, with the view expressed that stabilisation of the structure would negate the need for its demolition in its entirety. On the basis of this position, it was reasonable for the planning authority to determine that the proposed development would be contrary to Policy AR1 of the Development Plan.

Planning and Development Act 2000

7.2.3 Further to the above, the Board will note the provisions of section 57(10)(b) of the Planning and Development Act 2001, as amended. Therein it is stated:

A planning authority, or the Board on appeal, shall not grant permission for the demolition of a protected structure or proposed protected structure, save in exceptional circumstances.

7.2.4 It is clear that the planning authority does not consider that 'exceptional circumstances' arise in this instance and that there are alternatives to avoid the need for total demolition of the annex.

The Previous Board Decision

7.2.5 The Board will note its previous decision relating to Appeal Ref. PL 06D.232651. That proposed development also included the demolition and replacement of the coach house to the side of the house. The Board refused permission for that previous proposal. The protected status of No. 22 and the extent of demolition of the existing mews structure were matters of particular concern to the Board. The demolition and the form and nature of the replacement mews building were seen to create an incongruous feature that would detract from the integrity and setting of the house and the visual amenities of the adjoining protected structures. Having regard to the current proposal to demolish and replace the existing annex, it is very difficult to conclude that a similar proposal could now be viewed as acceptable. There is no defining 'exceptional circumstance' that has arisen in the interim.

Architectural Heritage Protection: Guidelines for Planning Authorities

7.2.6 The Guidelines form a practical guide for the Board and planning authorities on the protection of architectural heritage. In Section 6.25, reference is made to consideration of impact on architectural heritage and, where demolition is proposed, planning authorities are required to consider whether exceptional circumstances apply. I note the applicant's Condition and Conservation Assessment and Impact Statement Report which sets out the rationale for the extent of intervention proposed

in the development in the interest of conservation. While the merits of this report are acknowledged, it is not reasonable to assume 'exceptional circumstances' now apply.

7.2.7 Sections 6.8.11 – 6.8.16 of the Guidelines specifically refer to 'Demolition'. My considerations on the Guidelines as they relate to the proposed demolition of the annex are as follows:

- Section 6.8.11 states:

The Act provides that permission may only be granted for the demolition of a protected structure or proposed protected structure in exceptional circumstances. Where a proposal is made to demolish such a structure, it requires the strongest justification before it can be granted permission and will require input from an architect or engineer with specialist knowledge so that all options, other than demolition, receive serious consideration.

I note the architectural and engineering reports forming part of the planning application. These reports comprise a Condition and Conservation Assessment and Impact Statement Report, a Structural Condition Report, a Report on Opening Up of Existing Fabric, and a Structural Consultants Review of Architectural Proposal. These were supported by a comprehensive Photographic Survey. The following is particular notable:

Condition and Conservation Assessment and Impact Statement Report

This report includes the following:

- *It is evident that neither the Flat roof of the two storey Annex or the Trutone slated roof of the garage to the roadside are original and that the front wall of the Garage has been completely replaced with a Concrete block wall and modern garage door, all in a very poor state of repair.*
(Page 17)

- *The Structural Assessment identifies serious movement in the rear wall of the main house and the gable wall of the Annex. Both areas display significant outward bulging of the walls requiring reconstruction.*
- *... the brick Vaults are in a poor state of repair, incapable of supporting structures above in the absence of the additional structures added throughout the history of the building ... As the road level rose over the years, the floor of the garage was raised by the placing of fill and, finally concrete on the original floor with consequent imposition of greater dead load on the basement Vaults. This added to the retained loads from the roadway described above, further facilitated the distortion and failure of the basement ceilings. Of equal concern to the Structural Consultants is the poor ground conditions under the buildings, the relatively high water table level associated with the Maritimo Stream all of which contribute further to the settlement of the annex and the gable of the Main House. (Page 14)*
- *The dilapidated condition of the Annex and the scale of the failure of its essential structure as observed in the distortion of the Vaulted Basement structure and the excessive bulging of the South Eastern Gable demand that, in the interest of Safety, the Annex should be carefully dismantled and reconstructed.*
- *The annex/garage section of 22 Newtown Avenue, as described above, is in a poor state of repair and based on the structural assessment in need of complete reconstruction on secure foundations and in a manner which will ensure that the waters of the Maritimo Stream are prevented from undermining its substructure.*

Structural Consultant's Survey Report

Sections 1.6.2 and 1.6.3 of this Report notes defects of the front and rear elevations of the annex, alluding to vertical and diagonal cracks. Section 1.6.5 highlights the defects of the gable elevation of the annex, with reference to ivy growth, bowing and cracking of concrete haunching. Section 1.9 refers to cracking internally and water ingress at first floor level. Similarly, Section 1.11 addresses the ground floor. Section 1.13 refers to the basement level, with water ingress and walls being off plumb being particularly notable.

The Report's discussion on the findings refers to:

- Much of the problems in the external shell being associated with water penetration;
- Re-plastering having exacerbated the problem;
- Rising damp at basement level likely further exacerbated by the Carysfort-Maritimo River;
- The brick barrel vault structure at basement level under the side annex not being structurally adequate to support a two-storey extension; and
- Rising damp in the main house needing specialist advice.

The Report recommends a regime of testing to be carried out to establish the condition of the existing fabric.

Report on Opening Up of Existing Fabric

This report refers to a limited opening up and inspection of elements of the building fabric at pre-selected locations. It examined the roof, the external walls, internal walls, suspended floors, the basement floor in the side annex, and the foundations. The RHS gable wall along the Carysfort-Maretimo River was found to be significantly out of plumb, measuring 280mm over a height of 10.2m approximately. The 'Discussion' in the report states:

- *Any proposal to build over the side annex should involve the demolition of the existing annex down to basement level and constructing a reinforced concrete box-structure up to ground floor level. This new structure should be founded on the granite bedrock.*

A review of the condition of this gable wall, in the light of the measured out-of-plumbness and the attempts to stabilise the wall in the past by strengthening works in the basement, suggest that its structural integrity continues to be a problem and that further significant measures to

remediate the problems with the wall and to prevent further deterioration are urgently required.

- *This new structure would result in some underpinning of the existing walls that are to be retained, particularly to the gable wall of the Main House and the curved bay window to the rear of the house.*

Structural Consultants Review of Architectural Proposal

The 'Discussion' in this report included:

- *Our surveys and investigations to date clearly show that the southern annex is in very poor structural condition and all efforts over the years to rectify the problem have been clearly unsuccessful. Furthermore the damage in the form of bowing and leaning of the walls and settlement of the foundations is continuing which presents a distinct risk of partial collapse. The underlying cause of the problems with this annex over the years appears to have been inadequate buttressing of the vaults at basement level coupled with undermining of the foundations caused by the Maretimo Stream.*

We see no option but to carefully demolish this annex while protecting the fabric of the original house as is being proposed by the Architects.

7.2.8 Having regard to the extensive examination and assessments undertaken, it is evident that the annex is in poor structural condition, with bowing, leaning of walls and settlement of foundations continuing. The option of retaining the annex in whole, or in substantial part, by way of stabilisation and re-utilisation appears to have been comprehensively dismissed by the applicant as an alternative to the total demolition option. The Conservation Officer for the planning authority clearly is of the opinion that the whole structure can be stabilised, with the annex, being part of the protected structure, retained. I submit that the reports from the applicant call into question the option to retain the annex in a satisfactory manner, with defects identified in the various reports from the applicant being visually evident at the time of inspection.

However, I note the Board's previous decision under Appeal Ref. 06D.232651 to refuse the demolition of the annex. While I accept the merits of the proposal, I am particularly concerned that the demolition option is refuted by the Council's Conservation Officer and that the Board has previously rejected such a proposal. In light of such conclusions, demonstration of comprehensive assessment of the construction methodologies to examine the feasibility of retaining the annex are necessary and it may be determined that this option requires even further consideration due to the protected status of the annex. I submit that the principle of demolition of the annex must be viewed as warranted where the stability and avoidance of collapse of the main structure is called into question.

7.2.9 Further considerations on the proposed development in the context of the *Architectural Heritage Protection Guidelines* are as follows:

- Section 6.8.12 states:

It may happen that the special interests of a protected structure have been damaged or eroded to an extent that demolition is permissible. In such cases, in order to avoid setting a precedent of permitting the demolition of a protected structure, it would be preferable to first remove it from the RPS.

It is apparent that this is not the position in this instance, with the planning authority continuing to accept the merits of the existing structure in its entirety and retaining No. 22 Newtown Avenue on its Record of Protected Structures in its Development Plan that was adopted as recent as 2016.

- Section 6.8.13 states:

Caution should be used when considering proposals to demolish parts of protected and proposed protected structures as these parts may be of importance to the cumulative historic interest of a building. Where partial demolition of a protected structure is proposed, the onus should be on the applicant to make a case that the part – whether or not it is original to the structure – does not contribute to the special interest of the whole, or that the

demolition is essential to the proposed development and will allow for the proper conservation of the whole structure.

The existing annexe is part of the protected structure that contributes to the special interest of the whole structure, being a feature of distinct expression forward of the main house which was not alone a functional addition to the residence but is also a feature which strongly associates with the adjoining protected structures in the terrace of structures at this location, which reflect similar additions to the main houses. The appellant is clearly emphasising that the demolition is essential to allow for proper conservation. However, the Conservation Officer has effectively refuted this claim, with the stabilisation and retention option favoured. I do not accept that the annex does not contribute to the special interest of the whole structure and to the terrace of protected structures at this location.

- Section 6.8.16 of the Guidelines states:

There may be cases where an existing addition is of little architectural design ... Partial demolition may be permitted in such cases, providing it can be achieved without any adverse structural or architectural impact on the protected structure. (Section 6.8.14)

This matter has been addressed above. The demolition of the existing annex, which forms part of the protected structure, cannot be construed as an existing addition of little architectural design based on its recognition as part of a protected structure. The removal of the annex, thus, produces adverse structural and architectural impact.

- Section 6.8.16 states:

The demolition of a protected structure or a proposed protected structure may be permitted if it has become a dangerous structure. However, if a protected structure has become dangerous, every effort should be made to retain its special interest by specifying works that limit, as far as possible, material damage or alteration to the character of the structure.

It has not been determined that the existing annex is a dangerous structure. It is evidently in a state of disrepair. Notwithstanding its structural condition, it is apparent that every effort is required to be made to retain its special interest and this, I would suggest, would be best reflected in the pursuit of works ultimately to retain and conserve the existing annex, where permissible.

7.2.10 Having regard to the above, I consider the planning authority's decision, on policy and guidance terms, to be merited in the context of the spirit of such policy and guidance on architectural heritage protection. I do not consider that the demolition of part of the protected structure can be wholly justified in this instance if one is to have regard to the policy and guidance informing the Board at this time, to the Board's previous decision, and where there is informed opinion on the alternative to retain the structure the subject of dispute.

7.3 The Form and Character of the Proposed Extension to the Side/Front

7.3.1 I note the Board's previous decision under ABP Ref. PL 06D.232651. The Board expressed concern about the form and nature of the replacement mews building. It was seen to create an incongruous feature that would detract from the integrity and setting of the house and the visual amenities of the adjoining protected structures. The previous proposal incorporated a design at the initial application stage that was then changed by way of further information to a more contemporary design option. The current proposal again seeks to demolish and replace the existing annex and provides for a replacement that is distinctly contemporary in design.

7.3.2 It is my submission to the Board that the current replacement proposal exacerbates the previous concerns of the Board by increasing the height of the structure, providing a patchwork of fenestration and openings to the public realm that is incompatible with the main house, and introducing a distinctively contrasting palette of finishes to the new structure. It remains a particularly 'blocky' design. Based on the Board's concerns previously expressed about visual prominence and incongruity effecting the architectural integrity of No. 22 and the visual amenities of the terrace

and streetscape, I cannot reasonably conclude that the proposed replacement annex merits acceptance. It is clear that the height, scale, bulk and appearance of the proposed replacement structure would not sit comfortably with No. 22 itself and in any compatible manner with the remainder of the terrace. The elevational option presented in the appeal submission also does not address these concerns.

7.4 Structural Impact on No. 10A Newtown Avenue

7.4.1 Having regard to the need to undertake necessary improvement works to No. 22 Newtown Avenue, it is my submission that the proposed conservation and restoration works within the existing main house would positively benefit the structural integrity of the house and, with that, would likely have positive impacts for the integrity of the remaining terrace of properties. Further to this, I am of the opinion that, with controlled and monitored construction methodologies employed and in the knowledge of the sensitivity of the condition of the existing protected structure and the need for restoration, appropriate methods would be employed to maintain the structural integrity of the existing house without undermining the integrity of the neighbouring properties. From the intent of the application, it is apparent that it is the aim to appropriately restore the main house. It is, thus, inherent in this intent that there would not likely be any significant adverse construction impacts for neighbouring properties, inclusive of No. 10A, which it is noted is not the dwelling immediately abutting No. 22 but one which lies further west of the adjoining house.

7.5 Conclusion

7.5.1 I note the planning authority's response to the appeal, which submits the application was adequately reviewed. It is my opinion that the applicant's Structural Consultant's Survey Report clearly flags very significant structural deficiencies with the existing building and with the annex in particular. It also informs the Board of the more modern interventions which have taken place to maintain the structure. While I do not seek to refute the conclusions drawn by the applicant which demand a significant intrusion on the original fabric of the existing house as a whole, I must firstly

acknowledge the planning authority's conclusions derived from its Conservation Officer and, secondly, I must also have due regard to my conclusions on the form and character of the replacement structure, which is considered strongly misplaced in terms of design, height, form and character to the detriment of the main house and to the other houses on the terrace. While an informed and justifiable case may be made for the need for significant demolition works, the impact of the proposed replacement structure requires to be considered on its merits also and my considerations set out above demand a reasonable conclusion that the proposed development undermines the integrity of the main house and the visual quality of the terrace and its relationship with the streetscape as combined structures of built heritage value on the street.

8.0 Recommendation

- 8.1. I recommend that permission is refused in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the protected status of No. 22 Newtown Avenue and to the relationship between the property and the adjoining terrace of houses, which are also protected structures, it is considered that the proposed development, by reason of the extent of demolition of the original annex, which forms an integral part of the protected structure, and the form, height, bulk, scale and character of the proposed replacement structure, would create a visually prominent and incongruous feature which would detract significantly from the architectural integrity of the house and its setting, and the visual amenities of the adjoining terrace and streetscape. The proposed development would, therefore, be contrary Policy AR1 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, which seeks to protect structures included on the Record of Protected Structures from any works that would negatively impact their special character and appearance, would be inconsistent with the *Architectural Heritage Protection Guidelines for Planning Authorities* published by the Department of the Environment, Heritage and Local Government in 2004, and

would, thus, be contrary to the proper planning and sustainable development of the area.

Kevin Moore
Senior Planning Inspector

12th December 2017