



An
Bord
Pleanála

Inspector's Report PL29S.249221

Development	Demolition of roof, wall alterations, roof replacement including rooflight, addition to and alteration of window openings and associated site works.
Location	50 Palmerston Gardens, Rathmines, Dublin 6
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	WEB1327/17
Applicant(s)	Marjorie Young
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First
Appellant(s)	Marjorie Young
Observer(s)	Gabriel & Kerys Gavigan Leonie Paterson
Date of Site Inspection	12 th December 2017
Inspector	Rónán O'Connor

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1.0 Site Location and Description

- 1.1. The subject site is located in Palmerston Gardens, to the rear of No. 5 Palmerston Park (A Protected Structure). The site comprises of a modern 2 storey mews dwelling.
- 1.2. To the east of the site of the site is a two-storey contemporary mews dwelling that appears to be recently constructed. To the west are a number of more traditional two-storey dwellings in a mixture of styles.

2.0 Proposed Development

- 2.1. Demolition of roof, wall alterations, roof replacement including rooflight, addition to and alteration of window openings and associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Refuse permission for two reasons relating to (1) substandard private open space provision (2) overlooking of protected structure and the properties adjoining

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officer's report reflects the decision of the planning authority. Points of note are as follows:

- Proposal would result in an additional bedroom requiring a total open space provision of 105 sq. m.
- Total provision is 57 sq. m. and depth of garden is 5.7m (below 7.5m depth where relaxation of open space standards can be applied).
- Open space already falls below the standards – not considered appropriate to further erode the private open space provision.

- Alteration of window to the rear would result in undue overlooking of the main house – a protected structure, as well as adjoining properties.
- Recommendation to refuse permission

3.2.2. Other Technical Reports

Drainage – No objection subject to conditions

3.3. Prescribed Bodies

3.3.1. None

3.4. Third Party Observations

A number of observations were received. Issues raised are as follows:

- Short-terms guests/Use of the mews for paying guests
- Parking
- Residential amenity including impacts on privacy and noise issues
- Change of use
- Inadequate garden space
- Inaccurate description of development – does not include bedroom/Incomplete application form
- Object to any change of use

4.0 Planning History

PL29S.234110 (Web 1037/09) – Grant – Extension to the rear

Wed 1103/10 – Grant – Modifications to previously approved extension

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is zoned Z2 – To protect and/or improve the amenities of residential conservation areas.
- 5.1.2. Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:
- Policy CHC4 – To protect the special interest and character of all Dublin's Conservation Areas
 - Paragraph 16.10.12 of the Plan relates to extensions to residential properties
 - Appendix 17 of the Plan provides guidance on residential extensions
 - Appendix 24: Protected Structures and Buildings in Conservation Areas.

5.2. Natural Heritage Designations

- 5.2.1. None

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of the First Party Appeal are as follows:
- Existing barrel roof was not the preferred design of the applicant rather it was a compromise to appease the neighbours at the time and to protect existing tree
 - Context has now changed
 - Maintenance issues with the roof
 - Applicant wants the option to downsize into this property
 - New window/rooflight to introduce light to the centre of the house
 - Widen existing first floor window so it can perform as a fire escape

- Development standards should be not be applied to existing houses being altered.
- LPA is incorrect in how it interprets the infilling of an existing volume – should be treated the same as converting an attic
- Board has always taken the position that attic space is space that already exists
- Contend that the filling in of an existing double height space is also not development
- Change of roof profile on its own is development
- Enlargement of the first floor window may or may not be development
- All the existing mews dwellings have windows that face their original parent properties
- Abundance of mature planting that provides screening
- There is no change of use proposed
- Parking on Palmerstown Park is not relevant
- There is no disturbance due to noise
- LPA validated the application
- Subject property is a single dwelling house and is not intended to use the house unlawfully in any way
- Has had guests and family members stay in the subject property
- Unauthorised use is a matter for enforcement department of Dublin City Council
- Planner's report does not refer in any way to the main development proposed – the change in roof profile.
- Remains silent on five issues raised in submissions.
- Issues in relation to overlooking and open space provision could easily have been the subject of a request for further information

6.2. **Planning Authority Response**

6.2.1. Planner's report adequately deals with the proposal.

6.3. **Observations**

6.3.1. Gabriel and Kerys Gavigan

- Public notice is misleading – does not highlight additional bedroom
- Impacts on private open space provision.
- Application form states there is no increase in floor area
- Amenity impacts including disturbance, noise and overlooking
- Applicant has purchased a house elsewhere for her own use
- Increase in density
- Site is restricted – already has two previous permissions
- Previous condition imposed by the Board restricted further extensions without planning permission
- Zinc roof could be maintained
- Falls short of private space standards
- CDP standards apply to existing dwellings as well as new build

6.3.2. Mr and Mrs Paterson

- Intensification of use – restricted nature of the site
- Proximity of the Protected Structures to the south
- Vaulted roof could be repaired or replaced
- Insufficient open space
- Overlooking of adjoining protected structures
- Original house designed to protect residential amenity
- Intensification of floor area requires permission

6.4. Further Responses

6.4.1. None

7.0 Assessment

The following assessment covers the points made in the appeal submissions, and also encapsulates my de novo consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of development
- Residential amenity
- Development Plan Standards
- Design and Conservation/Impact on Protected Structures
- Other matters
- Appropriate Assessment

7.1. Principle of Development

7.1.1. The site is zoned 'Z2' under the Dublin City Development Plan, 2011-2017. The stated objective for 'Z2' zoned land is "to protect and/or improve the amenities of residential conservation areas". The principle of residential development is generally acceptable on 'Z2' zoned land, subject to safeguards.

7.2. Residential Amenity

7.2.1. A reason for refusal related to overlooking of adjoining properties as a result of the larger window at first floor level.

7.2.2. I note there are two existing first floor windows that face towards properties to the rear. One of these existing windows is a relatively large window that serves a bedroom. The other existing window is a smaller window serving the living area at ground floor level.

7.2.3. I do not consider that the new window at first floor level would result in a material increase in overlooking, over and above the existing larger window at first floor level. Furthermore, I note there is a distance of 24m to the nearest window on the rear

return of No. 5 Palmerston Park, and this is a sufficient distance to mitigate against any actual or perceived overlooking.

- 7.2.4. I do not consider the additional bedroom would result in a material increase in the level of noise and disturbance associated with the dwelling.

7.3. Development Plan Standards

- 7.3.1. A reason for refusal related to the substandard provision of garden space. In relation to the overall garden area, there is 51 sq. m. of open space on site to the rear. The Development Plan requires a total of 15 sq. per bedspace. Where the minimum garden depth of 7.5m is provided, the 15sq.m of private open space per bedspace may be relaxed.
- 7.3.2. Once the extension is constructed there will be 7 bedspaces on the site (as there are 3 X double bedrooms and 1 x single bedroom), requiring a total of 105 sq. m. The existing requirement is 75 sq. m.
- 7.3.3. I note that there is no encroachment into the existing open space. While the open space provision is less than the standards above, and the depth is less than 7.5m, I do not consider that the amenity of the future occupiers of this property would be so adversely impacted by the shortfall in amenity space so as to justify a refusal of permission. In my view, the garden as existing provides a reasonable standard of amenity for the property, and will continue to do so with an additional bedroom. I also note there are relatively large properties on this side of Palmerston Gardens with a similar amount of amenity space and as such this level of provision reflects the pattern of development in this area.

7.4. Design and Conservation/Impact on Protected Structures

- 7.4.1. The proposal is to replace the existing barrel roof with a more standard flat roof, to accommodate an additional bedroom, and to insert a larger window at first floor level and a new window at ground floor level, to the rear elevation. The overall design and appearance is acceptable in my view and it does not detract from the appearance of the existing structure, There are only limited views of the new roof from the street, with a subsequent limited impact on the character of the Conservation Area.

7.4.2. I do not consider that the proposal will have an adverse impact on the setting of neighbouring Protected Structures, given the small scale of the proposals, and the distance from the dwelling to these Protected Structures.

7.5. **Other Issues**

7.5.1. In relation to any potential unauthorised use of the property, it is of note that the Board does not have a role in Enforcement and in this respect regard is had to Section 10.1 of the Development Management Guidelines 2007 which provides: *Enforcement of planning control is the responsibility of the planning authority and this is the case, of course, whether the planning decision, including conditions, was made by the planning authority or the Board.*

7.6. **Appropriate Assessment**

7.6.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, a serviced suburban location, and the proximity to the nearest European Site, no Appropriate Assessment issues arise and it is not considered the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

I recommend that planning permission should be granted for the proposed development for the reasons and considerations set down below and subject to the following conditions.

9.0 **Reasons and Considerations**

Having regard to the provisions of the Dublin City Development Plan 2016 to 2022, including the zoning objective for the area, and to the nature, and scale of the proposed development, it is considered that, subject to compliance with the following conditions, the proposed development would not detract from the streetscape or the visual amenities of the area and would not result in significant impacts on the residential amenity of residential property in the vicinity, and would not adversely impact on the setting of neighbouring Protected Structures. 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. Site development and building works shall be carried out only between the hours of 0800 to 1800 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.

3. Water supply and drainage arrangements, including the 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.

4. 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 order to ensure that a reasonable amount of rear garden space

is retained for the benefit of the occupants of the extended dwelling and in

Rónán O'Connor
Planning Inspector

13th December 2017