



An  
Bord  
Pleanála

## Inspector's Report ABP-300314-17

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<b>Development</b>	Works and extension to a protected structure & construction of a new garage/store at rear laneway.
<b>Location</b>	52, Moyne Road, Ranelagh, Dublin 6
<b>Planning Authority</b>	Dublin City Council Sth
<b>Planning Authority Reg. Ref.</b>	3496/17
<b>Applicants</b>	Louis Burke & Emer O'Shaughnessy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission subject to conditions
<b>Type of Appeal</b>	First & Third Party
<b>Appellant</b>	Louis Burke & Emer O'Shaughnessy Maurice O'Farrell
<b>Date of Site Inspection</b>	21 <sup>st</sup> May 2018
<b>Inspector</b>	Dolores McCague

## 1.0 Site Location and Description

- 1.1. The subject site at 52 Moyne Road, Ranelagh, Dublin 6 is rectangular in shape and is occupied by a two-storey terraced redbrick late 19<sup>th</sup> century dwelling.
- 1.2. Moyne Road is a residential road with 2 storey redbrick housing along both sides, set behind front gardens. Moyne Road is a residential conservation area and buildings along the road are protected structures. There are footpaths to either side of the carriageway and parallel parking both sides.
- 1.3. There is a laneway running parallel to Moyne Road to the west which accesses the rear of the properties on Moyne Road. Originally pedestrian some, relatively few, have been altered to provide vehicular access to the rear of properties on Moyne Road. The laneway runs to the rear of properties on Annsley Park, but except for one or two cases, there is no access to the rear of properties on Annsley Park. The laneway is narrow varying in width and with projections and obstacles such as gateway structures and a service pole, which narrow it further. At the subject property it narrows to less than 2.7m.
- 1.4. It is proposed to provide vehicular access to the site from this laneway as part of the proposed development.
- 1.5. The existing dwelling has been in use until recently and has been maintained in good condition. Many of the original features remain. In the kitchen the chimney, with a fireplace, stands within a portion of wall, with circulation space to either side. At first floor there is evidence of subsidence in a sloping floor in the bathroom, which appears to slope away from the chimney rather than towards it. An interesting feature of the first floor is the location of the upper bathroom which is a half level above the first floor access.
- 1.6. The subject dwelling is an end of terrace house and there is a small gap between this house and No. 50. Although the residential properties along Moyne Road are 2 storey redbrick buildings there is variation between blocks of houses, which can be seen even on the OS map for the area. Most of the houses have two storey returns. The subject dwelling is one of 4, Nos 52-58, which have single storey returns. To the north the houses have two storey returns.
- 1.7. The site is given as 306 square metres in area.

## 2.0 Proposed Development

2.1.1. The proposed development involves works to a protected structure comprising: removal of chimney stack, rearrangement of partition layout at both ground & first floor level and relocation of the stair flight; new roof slates, roof light and new lead to the valley; the conservatory and single storey extension to the rear to be demolished & construction of new single storey kitchen & breakfast room extension & a first floor bathroom extension. Proposals also include the removal of the existing shed structures to the rear & construction of a new garage/store.

2.1.2. The proposed garage has a doorway width of 4m.

2.1.3. The application was accompanied by a Conservation Method Statement which includes:

Internal renovations include an additional bedroom and additional toilet accommodation. A reworking of the stairs will be necessary to achieve the additional toilet accommodation.

The existing roof is the original slate roof with a single rooflight, this will need to be reslated and a new rooflight provided.

The existing 3 no. chimney stacks are brick pointed with corbelled detailing, and clay stacks. They have been recently repaired with new lead flashing at the junction of the roof. The chimney to the rear of the dwelling appears to have issues with subsidence and as a result the adjoining floors are sagging and dipping. The remaining two chimneys appear to be in good condition.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to grant permission in accordance with 7 conditions which included condition no. 7:

The applicant shall comply fully with the following conservation requirements of the planning authority:

- a) Any works to the protected structure shall be carried out with input of specialist expertise from a conservation architect and in accordance with the

Architectural Heritage Protection Guidelines and the Advices issued by the Department of Arts, Heritage and Gaeltacht.

- b) The proposed removal of the chimney breast to be omitted.
- c) The proposed first floor extension building to be omitted.
- d) Prior to commencement of the works the architect shall provide details and engage in consultation with the Conservation Officer to obtain prior approval for works to the historic building fabric of the protected structure to include demolitions, replacement windows, plasterwork conservation, insulation and damp proof treatments.

Reason: To safeguard the special architectural interest of the protected structure and to ensure proper attention to conservation issues during the course of the works.

3.1.1. The decision was in accordance with the planning recommendation.

## 3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The first planning report included a recommendation that further information be requested.

The proposed new single storey extension would extend c7.3m beyond the rear wall of the existing house on the southern boundary at ground floor. The proposed new first floor extension would extend c4.6m along the southern boundary at a total height of c 5.7m.

The ground floor extension would be 4m high.

The space would provide a larger living/kitchen space at ground floor level. The intervention proposed at ground floor would include the removal of an original rear wall to accommodate access from the play room to the kitchen.

Further information to be requested on two points

The applicant has stated that the chimney has subsided. However there may be other methods of stabilising the structure without removal. A structural engineer's report shall be submitted to identify whether the subsidence is historic or ongoing,

methods of stabilising and a conservation analysis on the impact of the proposed removal on the external appearance of the terrace.

3.2.3. The impact of the addition of a first floor extension on the appearance of the house and the setting of the terrace has not been addressed. A conservation impact assessment shall be submitted having regard to the following:

3.2.4. The effect of extensions may have considerable impact on the appearance of buildings or on the setting of neighbouring buildings, or indeed on the appearance of the structure when viewed from a distance (or a set of similar structures such as in a terrace), and this should be considered by the planning authority when assessing applications. (Architectural Heritage Protection Guidelines)

3.2.5. Other Technical Reports

#### Conservation Officer's Report

- The initial report, dated 17<sup>th</sup> October 2017, included a recommendation that further information be requested, (which issued), noting:

Chimney stacks and pots are important elements of the roofline of a building. They can be indicators of the date of a building and of its internal planning. In Victorian buildings in particular, chimneys are usually an integral part of the architectural design.

In considering proposals affecting chimneys

Chimney stacks or pots, finials, or cresting should usually be repaired and retained. Only if they are decayed to the extent of being dangerous, should their rebuilding or replacement be permitted. Even when they are perceived to have no further use, chimneys should be retained together with their pots where their appearance is important to the appreciation of the building as a whole. While their main purpose is to remove smoke from open fires, chimneys also function in providing permanent ventilation to the building and, particularly in older buildings, they serve, or may have come to serve, a structural function. They also contribute visually to the architectural composition and massing of a building. Redundant flues should be capped but never fully sealed;  
and

The effect of extensions may have considerable impact on the appearance of buildings or on the setting of neighbouring buildings, or indeed on the appearance of the structure when viewed from a distance (or a set of similar structures such as in a terrace), and this should be considered by the planning authority when assessing applications.

3.2.6. Engineer Department – Drainage Division: conditions.

### 3.3. Further Information Response

3.3.1. Further information received 17<sup>th</sup> October 2017 included a conservation response from Historic Building Consultants, which includes:

The four houses at 52, 54, 56 and 58 Moyne Road were built together. Unlike the other houses along the western side of the road these were not built with two storey returns, but with single-storey. One of these houses now has a two-storey return. Other houses north and south have two-storey returns and generally have chimney stacks rising from the apex of the gables at the rear of the return.

The report points to the variety in the original treatment of the buildings, particularly the rear returns, the difficulty of seeing the proposed extension and alteration from the laneway to the rear, and also its modest size in comparison to other interventions.

### 3.4. Further Reports

3.4.1. Conservation Officer's Report on further information submission does not comment on the further information but recommends conditions:

Any works to the protected structure shall be carried out with input of specialist expertise from a conservation architect and in accordance with the Architectural Heritage Protection Guidelines and the Advices issued by the Department of Arts, Heritage and Gaeltacht.

The proposed removal of the chimney breast to be omitted.

The proposed first floor extension building to be omitted.

Reason: To safeguard the special architectural interest of the protected structure.

Prior to commencement of the works the architect shall provide details and engage in consultation with the Conservation Officer to obtain prior approval for works to the historic building fabric of the protected structure to include demolitions, replacement windows, plasterwork conservation, insulation and damp proof treatments.

Reason: To ensure proper attention to conservation issues during the course of the works.

### **3.5. Third Party Observations**

3.5.1. Third party observations have been read and noted.

## **4.0 Planning History**

The Planning Report for the Planning Authority stated that there was no Planning History on the subject site.

Other history Moyne Road.

PL 29S.245256 Planning Register Reference Number: 3939/14, first party appeal against condition and third party appeal against decision. Development at 95 Moyne Road - demolition of a single storey extension and shed to rear, erection of a ground floor extension of 26 square metres to rear of house and a first floor extension also to the rear of house of 26 square metres (gross total area 52 square metres) in a two-storey block on the southern boundary with two proposed roof lights on the south pitch of roof. The proposed development will also consist of re-slating of roof to the front and rear, re-building and re-pointing of shared chimney to the front with new flashing provided, replacement of existing windows to the front and rear and removal of chimney to the rear, general refurbishment and alterations to internal layout and associated site works. Granted subject to revised conditions.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The Dublin City Development Plan 2016-2022 is the operative plan, relevant provisions include:

- The Zone Z2 ‘Residential Neighbourhoods (Conservation Areas)’ land use zoning objective for the subject site:

“To protect and/or improve the amenities of residential conservation areas”.

Chapter 11 Built Heritage and Culture.

- It is the Policy of Dublin City Council:

CHC1: To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

CHC2: To ensure that the special interest of protected structures is protected.

Development will conserve and enhance Protected Structures and their curtilage and will:

(a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest

(b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances

(c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials

(d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure



(e) Protect architectural items of interest from damage or theft while buildings are empty or during course of works

(f) Have regard to ecological considerations for example, protection of species such as bats.

Changes of use of protected structures, which will have no detrimental impact on the special interest and are compatible with their future long-term conservation, will be promoted.

CHC8: It is the Policy of Dublin City Council to facilitate off-street parking for residential owners/occupiers where appropriate site conditions exist, while protecting the special interest and character of protected structures and Conservation Areas.

## **5.2. Architectural Heritage Protection - Guidelines for Planning Authorities**

published by the Department of Arts, Heritage and the Gaeltacht in 2011

- 5.2.1. The guidance refers to regeneration of our old buildings and their continued re-use, and that sympathetic maintenance, adaptation and re-use can allow the architectural heritage to yield aesthetic, environmental and economic benefits even where the original use may no longer be viable. The creative challenge is to find appropriate ways to satisfy the requirements of a structure to be safe, durable and useful on the one hand, and to retain its character and special interest on the other.

Chapter 9 deals with roofs including chimneys and includes the sections referenced in the Conservation Officer's Report.

## **5.3. Natural Heritage Designations**

The South Dublin Bay SAC site code 000210 and South Dublin Bay and River Tolka SPA site code 004024, are the nearest Natura sites, located c 4.5km away.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. Two appeals have been lodged against the decision of the planning authority, one is an appeal by the first party appeal against a condition and the other is an appeal by a third party against the decision to grant permission.

### 6.2. First Party Appeal

- 6.2.1. The first party appeal has been submitted by Louis Bourke Architects & Interior Designers on behalf of the first parties Louis Burke & Emer O'Shaughnessy.

- 6.2.2. The grounds includes:

They are appealing condition 7(b) and 7 (c).

The Conservation Officer has selectively quoted references from the Guidelines.

They refer to extracts from the Guidelines.

7.2.2 Good conservation practice allows a structure to evolve and adapt to meet changing needs while retaining its particular significance.

7.3.1 It is generally recognised that the best method of conserving a historic building is to keep it in active use.

They are fully committed to complying with the guidelines.

In return for the commitment to tastefully restore this house in line with the AHPG it is reasonable to ask that some development compromise is permitted. In this regard he refers to his drawings 17.20.06A and 07A which he asks the Board to consider and grant permission.

Re. 7(b) - the substantial subsidence and cracking in the external brickwork of the chimney outside roof level, the chimney stack and the floor in the area cross hatched on the drawing will have to be reconstructed, evidenced in photographs attached to the appeal. The cracking in the external brickwork is visible and the necessity for the rebuilding is contained within the conservation specialist report, also attached.

They propose to reconstruct the stack to a smaller footprint and in a slightly different location, as indicated on the drawings. This footprint will match the size of the

external brick stack as visible above the roof level. Existing bricks and pots will be salvaged for reuse.

They propose to fit appropriate fireplaces to working flues at both levels.

7(c)- the house at first floor level, excluding the staircase is 66 sq m, which is small for a house of this type.

The first party requires 4 bedrooms with bathrooms and wardrobes appropriate to modern expectations.

A smaller return is requested to serve as a family bathroom, reduced from 10.3m to 7.6m. The return is to be located off the half landing, contemporary in appearance and substantially lower and subservient to the main structure.

The Conservation Specialist Report submitted in response to the further information request is also submitted with the grounds. It includes – as to the appearance of the terrace, the chimney stacks on the rear of the roofs of numbers 48 to 70 are not visible from the street and this includes the stack that is the subject of this report.

The view along the rear of the houses is further complicated by the large gable-ended returns to the rear of most of the houses, with chimney stacks on the gables. Furthermore, the rear of the houses at numbers 52 to 58 is not readily visible from the laneway at the rear and is not visible from any other public place, so the chimney stack is not a prominent element in the terrace.

### 6.3. Third Party Appeal

6.3.1. The second appeal is a third party appeal by ARC Architectural consultants Limited on behalf of Maurice O'Farrell, 56 Moyne Road also the owner of No 50 Moyne Road.

6.3.2. The grounds includes:

Inadequate standard of accommodation - 2 bedrooms are 2m in width falling below the minimum 2.1m width required. A third bedroom, to comply with the condition that the chimney breast be retained, will be below the minimum width.

Negative impact on the protected structure and the architectural heritage of Moyne road. An extension to a protected structure should generally not be permitted unless necessary to ensure the long term viability of the building. The third party welcomes the omission of the first floor extension but considers that the further extension at ground level is not required to ensure the long term viability of this well maintained

three bedroom, two bathroom house in a highly desirable South Dublin suburbs. It can be distinguished from No. 54 Moyne Road where the planning authority permitted the extension of the house as part of a larger application for the refurbishment, repair and restoration of the much altered building, previously subdivided into flats (Reg. Ref. 3231/13).

Houses on Moyne Road are described, including that some are single A frame roofs while others are double A frame roofs. The terrace of four: 52 – 58, is unusual being the only terrace of three bay houses on the road and the only houses on the western site of the road constructed with small single storey returns.

The return is not identified as original / potentially original in the planning application and no investigation is referred to.

The demolition will result in negative impact on the protected structure and loss of original fabric, obscure original design features, and due to excessive depth, will obscure natural light into the original ground floor rooms. It will undermine the integrity of the setting of the protected structure and neighbouring protected structures and result in negative impacts on views from neighbouring protected structures including at Annesley Park and Ormond Road South; and set a negative precedent.

The application proposes considerable internal works, without the provision of a rationale indicating need: e.g. removal of partition walls; removal of original chimney breast, chimney stack and fireplaces; removal of all or part of original windows; removal of roof slates; loss of original curtilage. In each case the grounds refers to the Architectural Heritage Protection - Guidelines for Planning Authorities.

The negative impact on the protected structures of Moyne Road of a trend for the development of garages is of particular concern on the western site of Moyne Road where the returns of many of the houses extend further into the garden and where the gardens are of modest length. The drawings submitted appear to indicate an intention to remove a section of the existing boundary wall at No. 50 as part of the proposed development. There is no reference to the fact that works are proposed within the curtilage of the protected structure No. 50. Third party is concerned that any works could result in damage to No. 50 particularly given the location of a drain serving No. 50 which is located adjoining the northern wall of No. 52. It is also likely

that any works to the boundary wall are likely to interfere with access to the third party's lands through the side passage.

Negative impact on residential amenity; negative impact on views from rear windows of Moyne Road and Annesley Park, in particular from the south facing windows of No. 50 and loss of natural light to neighbouring protected structures; and overshadowing of the rear garden of No. 50 and reduction of the residential amenity of residents of Moyne Road and Annesley Park.

Negative impact of the proposed development on drainage and flooding – there have been considerable drainage problems with drainage and surface water in the past. Houses on Windsor Road were subject to flood damage in 2011. The document 'The Planning System and Flood Risk Management Guidelines for Planning Authorities' is referred to. The proposal reduces the rear garden by approx. 40%, and is likely to negatively impact on the areas capacity to attenuate surface water.

#### **6.4. Applicant Response**

6.4.1. The first party has responded to the third party grounds of appeal:

- They are committed to refurbishing the house in compliance with AHGP guidelines and will retain a specialist conservation Architect for appropriate advice in regard to the retention/refurbishment/repair of features.
- They have appealed and offered compromise proposals in regard to condition 7(b) and (c) which involve the essential rebuilding of the chimney stack to a smaller footprint and reducing the floor area of the bathroom.

#### **6.5. Third Party Response**

6.5.1. The third party has responded to the first party grounds of appeal:

Ownership of the wall between No. 50 and 52. The proposed development as indicated on the drawings cannot be constructed without demolishing the existing party wall. Any attempt to set the proposed development back from the northern boundary will have implications for the appearance of the rear façade and on the architectural heritage of the area.

The negative impact of the proposed removal of the chimney on the protected structure – the proposed removal is contrary to statutory guidance, will result in regative impact on the architectural heritage value of the protected structure.

The negative impact of the excessive number of new bathroom WCs on the protected structure – the scale of installation is grossly excessive for a house of this size. The third party supports the omission of the first floor bathroom and requests refusal of the proposed development.

The size of the house as a rationale for substandard accommodation – the statement that at first floor level the house, excluding the staircase, is 66 sq m is misleading. The application form states the floor area as 175.5 sq m approx. twice the minimum size of a three bedroom house (90 sqm) per the guidelines Quality Housing for Sustainable Communities, Best Practice Guidelines for Delivering Homes Sustaining Communities. Neither that, nor their expectations for four bedrooms etc, can be a rational for substandard accommodation.

## **6.6. Planning Authority Response**

6.6.1. The Planning Authority has not responded to the grounds of appeal

## **6.7. Board Correspondence**

The Board wrote, 13<sup>th</sup> March 2018, to the first party appellant requesting the plans referred to in the grounds of appeal and omitted from their submission. These were received on the 13<sup>th</sup> April and later circulated.

## **7.0 Assessment**

7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, impact on the character of the area and the protected structure, the laneway access, and impact on residential amenities and the following assessment is dealt with under those headings.

## **7.2. Appropriate Assessment**

- 7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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 a European site.

## **7.3. Impact on the character of the area and the protected structure**

- 7.3.1. The subject house is a protected structure and the area is a Residential Conservation Area.
- 7.3.2. Impact on the character of the area and the protected structure is the subject of both the first party and third party appeals. The first party in their appeal against the condition (no. 7 b) and c)) supports their appeal with a revised proposal and with the report of a Conservation Specialist, previously supplied to the planning authority. The third party reiterates statements previously submitted to the planning authority.
- 7.3.3. The report of the planning authority's conservation architect refers to chimney stacks and pots, and cites the DAHG guidelines, referring to the roofline of a building and the contribution made visually to the architectural composition and massing of a building.
- 7.3.4. I consider that the retention of the above roof features, in a manner such as is proposed in the revised submission to the Board, would achieve this result. The internal modifications have otherwise been accepted by the planning authority and therefore I see no reason to refuse permission on the basis of the proposed internal alterations.
- 7.3.5. I note the reference in the grounds of appeal to the dimensions of two of the proposed bedrooms, being slightly below the guidelines recommended minimum width of 2.1m. I also note that in the recently published 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, Department of Housing, Planning and Local Government March 2018' there is provision for a variation of up to 5% allowable in room areas and widths subject to overall compliance with required minimum overall apartment floor areas. A 5% width allowance would represent 0.1m, i.e. the shortfall noted in the bedroom widths. In

this case the fact that this is an existing house where the existing layout and existing dimensions impose constraints on providing for the family's accommodation requirements is an important consideration. In my opinion the small shortfall in recommended bedroom width's should not be a reason to refuse permission.

- 7.3.6. The other matter raised in the report of the planning authority's conservation architect is that of the upper level extension. The report states that what is more relevant than its modest size, in relation to other houses along the street, is that it extends a considerable distance from the rear wall with a lobby and a bathroom, and that it is likely to have a detrimental impact on the house and the adjacent protected structures.
- 7.3.7. The response to the grounds of appeal includes the Conservation Specialist Report submitted in response to the further information request which refers to the appearance of the terrace, from the rear, that the view along the rear of the houses is complicated by the large gable-ended returns to the rear of most of the houses, with chimney stacks on the gables and that the rear of the houses numbers 52 to 58 is not readily visible from the laneway at the rear and is not visible from any other public place.
- 7.3.8. The Board will note that the response to the grounds of appeal includes a revision to the proposed first floor extension which would reduce the proposed depth by 1.1m. I accept the submission from the Conservation Specialist that the rear of houses numbers 52 to 58 including that of the subject house No. 52 is not readily visible from the laneway at the rear and is not visible from any other public place. In my opinion impact on the residential conservation area, should not be a reason to refuse permission.

#### **7.4. The Laneway Access**

- 7.4.1. The laneway access was not an issue of concern to the planning authority and is not referred to in the conditions attaching to the grant of permission.
- 7.4.2. The issue was raised as one of a number of concerns by the third party in relation to the erection of a garage on the common boundary where the third party has concerns regarding the boundary wall and his drain which runs close to the boundary and in relation to the reduction in remaining site area. The third party refers to a



trend for the development of garages on the western site of Moyne Road as being of concern and states that it is likely that any works to the boundary wall are likely to interfere with access to the third party's lands through the side passage.

- 7.4.3. As stated earlier in this report, the laneway running to the back of the site runs to the west of and parallel to Moyne Road and provides access to the rear of all the properties on Moyne Road, but not to the rear of properties on Annsley Park which runs along the other side of the laneway. In the main the accesses provided to Moyne Road properties are pedestrian only. In only a few cases these accesses have been developed into vehicular accesses. It is not clear when or under what circumstances these few vehicular accesses were developed. The laneway is long and very narrow and in my opinion it is not suitable for vehicular access and it would be of concern that to permit the proposed vehicular access would set a precedent for further similar accesses on this very narrow laneway. In my opinion, in view of the fact that this is an ancillary part of the development, e.g. the notices do not refer to a vehicular access, although it could be inferred from the description construction of a new 'single storey garage/store accessed from the service laneway' that a vehicular access is included, it would be reasonable to remove the vehicular access by condition.

#### 7.5. **Residential Amenity**

Negative impact on residential amenity has been raised as a concern: negative impact on views from rear windows of Moyne Road and Annesley Park, in particular from the south facing windows of No. 50 and loss of natural light to neighbouring protected structures; and overshadowing of the rear garden of No. 50 and reduction in residential amenity.

The first party response refers to the scattergun approach by the appellants and what appears to be their extended family and that it would be unproductive to respond in detail to the points made. The first party response includes a proposal to amend the proposed development, reducing the depth of the first floor extension by 1.1m.

The drawings provided for the Board's consideration illustrate how a reduced first floor extension would provide satisfactory accommodation. In my opinion the

proposed first floor extension is unlikely to have any material impact on the residential amenities of the area.

Nearby windows have views over modified roof areas of enlarged ground floor extensions, such as has already taken place within the subject site and at No 52.

The extent of the ground floor extension and the reduction in undeveloped garden area is an issue which has been raised by the third party. The proposed ground floor extension is large extending between 6.3 and 7.3m from the main building. The existing conservatory extends some 4.8m from the main building. The building will stand to a height of 3.5m along boundaries. Notwithstanding that there are existing boundary walls the proposed increase in height of the structure will alter the surroundings of the adjoining garden areas. It will also reduce the garden area of the subject site, but not below the private open space requirements of the Development Plan. In my opinion, on balance, this should not be a reason for refusal.

#### **7.6. Interference with Boundary Wall**

7.7. Possible interference with boundary walls and possible impact on private services has been raised as a concern by the third party. It is stated that the development cannot be implemented without demolishing a party wall.

7.7.1. This is largely a legal matter and is not one that the Board can finally determine and Section 34 (13) of the Planning and Development Act, which states that the granting of permission does not entitle a person to carry out development, covers the eventuality that the development cannot be implemented for legal reasons.

#### **8.0 Recommendation**

8.1. In the light of the above assessment I recommend that planning permission be granted in accordance with the following conditions for the following reasons and considerations.

## 9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, to the pattern of development in the vicinity, and to the Zone Z2 'Residential Neighbourhoods (Conservation Areas)' land use zoning objective for the area, as set out in the Dublin City Development Plan 2016 – 2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would provide improved residential accommodation, would not seriously injure the amenities of the area or of property in the vicinity, would not detract from the character or setting of protected structures, and would be in accordance with the policies and objectives of the said Development Plan, particularly as they relate to protected structures and to the Z2 land use zoning objective. 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 as amended by the further plans and particulars submitted on the 17 day of October 2017 and by the further plans and particulars received by An Bord Pleanála on the 13<sup>th</sup> day of April, 2018, 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 proposed development shall be amended as follows:

The proposed first floor element shall be reduced in depth to 3.5m. Revised drawings showing compliance with this requirement shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** To protect the character of the Protected Structure and in the interest of visual and residential amenity within the Residential Conservation Area.

3. The development shall comply with the following requirements:

All works shall be carried out in accordance with best Conservation Practice and the Architectural Heritage Protection Guidelines and Advice Series issued by the Department of Arts, Heritage and the Gaeltacht. Any repair works shall retain the maximum amount of surviving historic fabric in situ including structural elements.

A Conservation Architect shall be employed to manage, monitor and implement the works on site and to ensure adequate protection of the historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the building structure and/or fabric and shall be carried out as per the submitted Conservation Methodology.

**Reason:** To ensure that the integrity of the Protected Structure No. 52 Moyne Road is maintained and that all works are carried out in accordance with best conservation practice.

4. The proposed shed at the rear laneway shall be provided with a pedestrian entrance only.

**Reason:** To reduce the level of vehicular traffic along the laneway which is

unsuitable for vehicular traffic.

5. 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.

6. Site development and building works shall be carried out only between the hours of 0700 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.

7. Demolition / construction phase noise levels – shall comply with British Standard 5228 – Noise Control on Construction and open sites Part 1, Code of practice for basic information and procedures for noise control.

**Reason:** In the interest of residential amenity.

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Planning Inspector

13<sup>th</sup> July 2018

Appendices

Appendix 1 Photographs

Appendix 2 Extracts from the Dublin City Development Plan 2016-2022