



An  
Bord  
Pleanála

## Inspector's Report ABP-300859-18

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<b>Development</b>	PROTECTED STRUCTURE: Removal of extension & construction of new extension. Reversion to single occupancy dwelling with refurbishment, landscaping & all associated site development works.
<b>Location</b>	44, Mountpleasant Avenue Lower, Dublin 6, rear of site on to Fortescue Lane.
<b>Planning Authority</b>	Dublin City Council Sth
<b>Planning Authority Reg. Ref.</b>	4273/17
<b>Applicant(s)</b>	Madeline Moore and Oliver Comerford
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Andrew Folan and Roisin Kennedy.
<b>Observer(s)</b>	1. Joan and Michael Kelly 2. Bernadette Noble

**Date of Site Inspection**

21<sup>st</sup> of May 2018

**Inspector**

Karen Hamilton

## 1.0 Site Location and Description

- 1.1. The subject site includes a protected structure and is located at No. 44 Mountpleasant Avenue Lower, Rathmines, Dublin 6 and comprises of a two-bay two-storey over basement terraced house c. 1855 which has been in multiple units for many years.
- 1.2. The subject site can also be accessed to the rear along Fortescue Lane which includes a number of mews type developments and commercial properties along the northern section. There is a single storey modern lean-to extension to the rear of the property. A concurrent application (Reg Ref 4272/17) has been granted at the end of the rear garden for a two storey pitched and flat roofed artist's studio, workshop and family room.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
  - Removal of existing single storey extension at the rear,
  - Excavation of part of the garden at the rear,
  - Construction of a new single storey and part two storey extension to the rear,
  - Reversion from multiple to single occupancy,
  - All associated restoration, conservation and repair of windows, front railings and internal works to the dwelling which is a Protected Structure.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to grant permission subject to 6 no conditions of which the following is of note:

C 6- Any works to the protected structure on site shall be carried out with the input from a conservation specialist in accordance with the national guidelines and the

architect shall engage with the Conservation Section of the planning authority during the works.

### 3.2. **Planning Authority Reports**

#### 3.2.1. Planning Reports

The report of the area planner does not make any reference to the Conservation Section stating no report was received. The area planner considers the proposal was in accordance with the policies and objectives of the development plan. The application was accompanied by a Planning and Conservation Impact Report.

#### 3.2.2. Other Technical Reports

Conservation Section- Request for further information.

Drainage Division- No objection subject to conditions.

### 3.3. **Prescribed Bodies**

None received.

### 3.4. **Third Party Observations**

Two submissions were received both from the appellant and an observer and the issues raised have been summarised below.

## 4.0 **Planning History**

### **4272/17**

Permission granted for a concurrent application for the construction of two storey pitched and flat roofed artist's studio, workshop and family room, new pedestrian gate and open to existing wall to Fortescue Lane with existing vehicular access and parking space from Fortescue Lane retained. Condition No. 3 stated that the use of the building shall be incidental to the enjoyment of the main dwelling.

### **3950/04**

Permission refused for a 2 storey mews dwelling at the rear of No 44 Mountpleasant accessed from Fortescue Lane.

## 5.0 Policy Context

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

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"*.

Extension to dwellings.

**Section 16.2.2.3:** Alterations and extensions (general)

Extensions will be sympathetic to the existing building and adjoining occupiers, Alterations and extensions to roof will respect the scale, elevation proportion and architectural form of the building.

**Section 16.10.12:** Extensions and Alterations to Dwellings

Relates to alterations and extensions to dwellings and states that development will only be granted where it will not have an adverse impact on the scale and character of the area and will not adversely affect amenities enjoyed by occupants of adjacent buildings.

**Appendix 17** of the Plan sets out design guidance with regard to residential extensions;

17.3: Residential amenity: extensions should not unacceptably affect the amenity of the neighbouring properties,

17.4 Privacy: Extensions should not result in any significant loss of privacy to the residents of adjoining properties.

17.5 Separation distance: 22m recommended although may not be applicable in all cases.

17.6 Daylight and Sunlight: care should be given to the extensions and the impact on the adjoining properties,

Section 17.11 Guidance for Roof Extensions

The dwelling is a **protected structure** and on lands zoned Z2, residential conservation, therefore the following policies and objectives are considered to be relevant.

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

**Section 11.1.5.3 Protected Structures - Policy Application.** The design, form, scale, height, proportions, siting and materials of the new development should complement the special character of the protected structure. The traditional proportionate relationship in scale between buildings, returns, gardens and mews structures should be retained.

**Appendix 24:** Protected Structures and Buildings in Conservation Areas.

### 5.3. **Natural Heritage Designations**

None relevant

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The grounds of appeal are submitted from residents of the property to the north of the site, No 45, and the issues raised are summarised below:

- The proposed development does not comply with the development plan, in particular the Z2 zoning and section 16.2.2.3 of the development plan in relation to extension and alterations.
- The conservation report refers to previous grants of permission, there are no permissions within the vicinity of No 44 which is a centrally located terrace of two storey over basement dwellings (No. 30 and 49).
- There are no other houses on the row which have extended at half-landing level between the upper and first floor level.
- The proposed extension will remove natural light into the adjoining stair window which would detract from the natural features

- The proposed bathroom extension would not enhance the character of the terrace nor comply with the Z2 zoning.
- Submitted drawings illustrate the proposed extension, at No 44, in context with the appellants dwelling at No. 45.
- The first floor extension would overshadow the adjoining property (shadow projection drawings submitted).
- Damage to the historic fabric should be avoided.
- The construction of the attic room is unauthorised and requires retention. It cannot meet the Building Regulation standards. The works required to meet the building regulations requires a separate planning approval.
- The proposed dormer is out of character with the area.
- Internal alterations can be used to accommodate extra space without the need for a large bathroom on the return
- The applicant states that excavation and works to the boundary will be carried out where necessary. DWG No. 130/PL19 and DWG No/ PL130/PL13 both illustrate different areas to be excavated.
- Concern is raised over the underpinning of a boundary wall and addition load bearing on the same.
- The submitted planning drawings do not comply with Section 23. (1) of the Regulations.

## 6.2. Applicant Response

A response from an agent on behalf of the applicant is summarised below:

- The Conservation Officer comments, which were not referenced in the Planners Report, are acknowledged and amendments to the proposal include:
  - a) Reduction in the size and projection of the dormer window (Appendix A).
  - b) Inclusion of 3D images to better understand the rear extension (Appendix B).
  - c) Design statement by architect (Appendix C).

- Appendix D includes preplanning correspondence between the applicant's agent and the planning authority.
- The proposed development includes a suite of works which will restore the building to a suitable family home and reinstatement of original features of interest.
- The proposed development is consistent with Section 16.2.2.3 in relation to extension and alterations of dwellings.
- Both the planning officer and the conservation officer referred to the positive impact of the works on the protected structure.
- The proposed works are consistent with Section 16.10.12, residential amenity.
- The proposed bathroom on the first floor extends out by 3.2m and will not cause any additional overshadowing on No. 45 to the north as the terrace is currently overshadowed by their rear extension. The additional shadows from the extension will be cast over the roof of the rear extension. The bathroom extends 5.9m from the original ground level and will only be 30cm above the half landing window of No.45.
- Reference to similar granted permissions along Mountpleasant Av Lower is provided in the following:
  - a) PL29S.245225 (Reg Ref 3195/14): extension permitted at No 38 is larger than the proposed development.
  - b) Reg Ref 6015/05: large projecting box permitted at No.40 at first floor.
  - c) PL29S.237282 (Reg Ref 2784/10): The size of the bathroom permitted is larger in No 50. Mountpleasant than the proposed development.
  - d) Reg Ref 5397/07: Three storey rear extension granted at No. 2.
- Condition No 6 requires the input from a Conservation Specialist during works on the site who will be informed by drawings and information prepared by a structural engineer to prevent any impact on the structural stability of abutting property.
- The planning officer deemed the drawings submitted sufficient in order to carry out an assessment of the proposal.



### 6.3. **Planning Authority Response**

None received.

### 6.4. **Observations**

Two observations have been received from residents of properties in the vicinity and the issues raised are summarised below:

- The issues raised in the grounds of appeal are supported.
- The proposed bathroom extension at half-landing level would cause overlooking, overbearing and overshadowing on surrounding properties.
- The proposed works have a negative impact on the protected structure and the rear extension will cause a significant loss to the architectural fabric and form.
- The Board should have regard to the national guidelines for Architectural Heritage Protection.
- The proposed bathroom blocks the large rear window which is a feature of the design.
- The attic should be returned to its original form.
- The roof dormer should not be permitted.

### 6.5. **Further Responses**

None received.

## 7.0 **Assessment**

- 7.1. The following assessment has regard to the revised plans submitted with the applicant's response to the grounds of appeal and includes an amendment to the rear dormer window to include a reduction in the length by 0.5m. The amendments were not considered material and therefore were not circulated to third-party objectors.

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

- Impact on the Built Heritage
- Impact on the Residential Amenity
- Impact on Structural Integrity of Abutting Property
- Appropriate Assessment

### **Impact on the Built Heritage**

7.3. The subject site is a Protected Structure and located on lands zoned, Z2, residential conservation area. The proposed development includes the demolition of an existing moderate single storey lean-to rear return, construction of a two storey rear extension and conversion of the dwelling to single occupancy. The proposal includes a significant amount of internal alterations for the refurbishment and a dormer window and velux windows are included to the rear. The submission from both the grounds of appeal and observers refer to the impact of the proposal on the protected structure, in particular the rear extension, dormer window and use of the attic as habitable space. A Conservation Impact Report accompanied the application which provided the history of the site, a list of the proposed works, a photographic survey of the interior and exterior of the building and detailed the impact on the historical aspects of the protected structure. The proposed development is assessed separately below.

7.4. Interior and exterior alterations: The conversion from multiple to single occupancy requires the removal of additional partitions within the building and the façade summarised as follows:

- Conversion from multiple occupancy to a single residential dwelling,
- Reinstatement of timber front door,
- Reinstatement of 6no. hardwood timber sliding sash windows,
- Removal of non- original stud partitions and ceilings throughout,
- Removal of electricity meters and service ducts to stairwells,
- Reinstatement of part of the rear wall of the house,

- Repair of original ceilings and cornicing to the front of the house and rear raised ground floor rooms, and first floor front room,
- Reinstatement of fireplaces,

7.5. In relation to the work to the attic and use as a habitable space, the grounds of appeal refer to the previous unauthorised conversion and the failure of the current space to meet with the Building Regulations. It is of note the Conservation Impact Report refers to the existing attic bedroom. This aside, I note the plans submitted refer to the space as “attic” and I note the report of the planner did not refer to the attic space. Section 7.8 of the Development Management Guidelines for Planning Authorities state that “It is inappropriate, however, in development management, to deal with matters which are the subject of other controls unless there are particular circumstances”. I am satisfied that the applicant is required to comply with the Building Control Regulations in this instance and a note on any grant of permission is considered reasonable.

7.6. Policy CHC2 of the development plan provides guidance for the appropriate development within the curtilage of protected structures where those features of interest should be conserved and enhanced. It is noted in both the report of Conservation Officer and the Planning Officer, the positive contribution of these works on the protected structure. Having regard to the reinstatement of numerous features of interest such as the hard wood windows and ceiling and cornice repair, which would have been present in the original dwelling, in conjunction with the conversion to a single dwelling, I consider the refurbishment would not have a negative impact on the character or setting of the protected structure.

7.7. Demolition: The single storey rear extension (c. 30m<sup>2</sup>) requires demolition. Section 3.10.2 of the Architectural Heritage Guidelines for Planning Authorities provides guidance on the demolition of structures where the works may have an impact on the special features of interest or overall character of the protected structure. I note the submitted Conservation Impact Assessment and reference to the “none-original extension”. I also note the design and location of the current extension, of which is mostly block walls and modern u PVC windows, and I consider its demolition is justifiable and I do not consider the removal of the rear return would affect the character and setting or the special interests of the main dwelling.

- 7.8. Design of the new extension: The proposed extension includes a ground floor (c. 27m<sup>2</sup>) and first floor bathroom (c. 8m<sup>2</sup>) and extends to the rear of the building IN A similar location to the current extension. The overall design is a simple two storey extension with flat roof and external materials similar to the existing brick on the rear facade. In relation to the impact of the proposed new extension on the character and setting of the protected structures, Section 3.10.1 of the Architectural Heritage Guidelines for Planning Authorities requires the scale of new development where it should be appropriate to the general scale of the area. Section 11.1.5.3 of the development plan seeks to ensure that the design, form, scale, height, proportions, siting and materials of the new development should complement the special character of the protected structure. The extension, to the rear, will not be visible from the front of the dwelling and having regard to the additional floorspace proposed (31m<sup>2</sup>) I do not consider it is excessive in bulk and mass. I note the report of the Conservation Section raised concern over the upper level of the extension as there were no similar levels to other adjoining houses, which I do not consider a reasonable justification for removal as each proposal should be assessed on its individual merits and no concerns in relation to the design were raised. Alterations to the roof include two velux and a dormer window, which has been reduced by 0.5m (2m), finished with zinc. Section 17.11 of the development plan, Guidance for Roof Extensions, requires the design of the dormer to be subordinate, which I consider the proposed development complies.
- 7.9. Having regard to the scale and design of the proposed alterations and extensions, I do not consider they would have a detrimental impact on either the character of the main dwelling or those adjacent protected structures.

### **Impact on the Residential Amenity**

- 7.10. The subject site is a mid-terrace two storey over basement dwelling. The extension is in line with the footprint of an existing rear single storey return along the north boundary with No. 45 and extends up to the first floor to accommodate an additional bathroom, accessed from the existing mid landing window. The window on the first floor faces south, towards No No.6 and includes obscure glazing. The grounds of appeal and the submission from the observers refers to the impact of the proposal

on the amenity of those residences of properties in the vicinity including overbearing, overlooking and overshadowing which I have addressed below.

- 7.11. Overlooking: The use of obscure glazing in the first floor bathroom window will prevent any overlooking on the property to the south and there are no windows proposed on the first floor facing north.
- 7.12. Overshadowing: The first floor bathroom projects c. 2.5m above the existing rear extension of the property to the north. Shadow projection drawings were submitted by the grounds of appeal to indicate overshadowing on the rear landing window and terrace. The submission from the applicant refers to the existing overshadowing from the appellants rear extension over the rear terrace. Having regard to the height of the bathroom extension 2.5m above the appellants rear extension which is 2.6m in width, I do not consider there would be significant overshadowing on the rear amenity space of No 45, to the north.
- 7.13. Overbearing: The grounds of appeal and the applicant have both submitted photomontages of the first floor extension. I note the appellant's use of external materials for the photomontages differs from the proposed brick finish to match the existing building. As stated above in relation to the built heritage, I consider the scale and mass of the proposed rear extension respects the character of the protected structure and having regard to guidance in Section 16.10.12 of the development plan in relation to extensions, I do not consider the proposal would have any significant overbearing on the surrounding area.

#### **Impact on the Structural Integrity of Abutting Property.**

- 7.14. The rear extension of the subject site is higher than the rear of the gardens on either side. The proposed development includes the excavation of the rear garden to accommodate the rear extension and terrace area, in line with the existing basement, currently c. 1m below the rear garden and adjoining properties. The grounds of appeal express concern over the impact of the excavation on the adjoining properties and the rear extension along the boundary wall with No. 45 to

the north. I note the boundary wall of the rear extension is set within the applicant's site, therefore there will be no additional loading on the party wall or the appellant's rear extension. The Conservation Impact Assessment included a method statement for the works although failed to provide any details of the structural interventions required for the underpinning of boundary walls. I note the report of the Conservation Officer requested additional information on these structural works, which the Planning Report failed to address.

- 7.15. I do not consider the scale of the excavation and construction represents an exceptional risk to the adjoining property although having regard to the removal of an existing single storey rear extension in conjunction to the excavation I consider it reasonable to require the submission of a structural engineers report to ensure best practice is followed. This can be addressed by the inclusion of a condition.

### **Appropriate Assessment**

- 7.16. Having regard to the nature and scale of the proposed development within a serviced 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 location of the site, the scale and bulk of the proposed works, the Z2 zoning and the policies and objectives of the Dublin City Development Plan 2016-2022, in particular Section 16.10.12 residential extensions and CHC2 protected structures, it is considered the proposed development would not seriously injure the residential or visual amenity of the area and would not detract from the character or

setting of the adjacent 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 and by the further plans and particulars received by An Bord Pleanála on the 13th day of March 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. Prior to commencement of development, the developer shall provide for the following:-
  - a) The appointment of a conservation expert, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.
  - b) Submission of a structural engineers report including the proposed underpinning of boundary walls, the structural interventions required and precautions necessary to avoid loss or damage to these walls, in line with best conservation practice.
  - c) The submission of details of all finishes and of all existing original features to be retained and reused where possible, including interior and exterior fittings/features, joinery, fenestration, plasterwork, features (cornices and ceiling mouldings), roofs, staircases including balusters, handrail and skirting boards.

All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

**Reason:** To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

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 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.

Advice Note: The applicant is advised that the onus is on them to comply in full with the requirements of the Building Control Regulations.



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Karen Hamilton  
Planning Inspector

30<sup>th</sup> of May 2018