



An
Bord
Pleanála

Inspector's Report ABP-301016-18

Development

PROTECTED STRUCTURE: The development will consist of the construction of a 3 storey over basement lightweight structure to the rear of 20 Molesworth Street, Dublin 2. The current proposal involves the demolition of some existing partitions and walls within the existing building and the removal of the existing 2 storey 19th century annex building to the rear in its entirety. The proposal involves the construction of a new structure to the rear at basement, ground, first and second floor level for office use at each floor to be integrated with the remainder of the main building currently in office use. All with associated site works and development works.

Location

20, Molesworth Street, Dublin 2

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

4378/17

Applicant(s) IDV Molesworth Ltd.

Type of Application Permission

Planning Authority Decision Refuse

Type of Appeal First Party

Appellant(s) IDV Molesworth Ltd.

Observer(s) None

Date of Site Inspection 18/06/2018

Inspector Gillian Kane

1.0 Site Location and Description

- 1.1. The site is located at 20 Molesworth St. Dublin 2. It accommodates a mid-terrace early Georgian property, which is a Protected Structure. The building is two-bay, four storeys over basement with a red brick façade. To the rear, a link corridor connects the main building with a later rear annex. The majority of the main building accommodates offices and ancillary accommodation. The annex which consists of a basement and ground floor accommodates an art gallery.
- 1.2. The site lies in an area of commercial uses, dominated by offices, art galleries etc. To the west of the site lie the Grand Lodge of Freemasons Ireland and associated parking. Kildare House and its associated carparking and external storage facilities bounds the site to the north and east.

2.0 Proposed Development

- 2.1. On the 27th November 2017, planning permission was sought for the construction of a three storey over basement structure (425.3sq.m.) to the rear of the existing building at no. 20 Molesworth Street.
- 2.2. Details provided in the application form are as follows:
 - Total site area: 290sq.m.
 - Buildings to be retained: 426.1sq.m.
 - Proposed new floor area: 425.3sq.m.
 - Floor area of new and retained buildings: 861.4sq.m.
 - Buildings to be demolished: 138.4sq.m.
 - Proposed plot ratio: 2.8
 - Proposed site coverage: 90%
- 2.2.1. The application was accompanied by the following:
 - Architectural Heritage Assessment Report
 - Fire Safety Design Strategy
 - Planning Report

- Design Statement

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 30th January 2018, Dublin City Council issued a notification of their intention to REFUSE permission for the following reason:

- 1 No. 20 Molesworth Street is an architecturally significant Dutch Billy house, a protected structure and original to the construction and building period of Molesworth Street. The proposed development, incorporating demolition of the later 19th century rear annex structure and replacement with a new three storey over basement extension extending almost full width including an additional floor to previously approved; would dominate this protected structure, adversely affecting its architectural and cultural significance and overall amenity and setting. The development, due to its scale and form and further internal alteration would constitute overdevelopment of this sensitive site, would be contrary to Policy CHC2 and Section 11.1.5.3 of the City Development Plan 2016-2022 which seeks to ensure that the special interest of protected structures is protected. The proposal would therefore be contrary to development plan provisions, to the Architectural Heritage Protection Guidelines and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. **City Archaeologist:** Additional information required: Subject site is listed on the RMP (DU018-020260), contrary to the report submitted by the applicant. Applicant should be requested to provide a comprehensive archaeological assessment of the proposed development site, archaeological test excavations, a building survey, a detailed impact statement and a written report of the results of the assessments in advance of a decision.

3.2.2. **Engineering Department, Drainage Division:** No objection

3.2.3. **Conservation Officer:** The modest building forms an important part of the narrative of no. 20 and the 'cumulative historic interest of the building'. The proposed building is not universally accessible. Proposed sub-division of internal rooms in the main building are unsatisfactory, would have an adverse impact on the spatial quality and

character of the protected structure and would create a tortuous circulation route along the party wall. The visual appreciation of the historic timber linings to the first-floor window in the rear would be significantly compromised by the stepped arrangement of the proposed partition. The proximity of the permitted three storey building was to be alleviated by a glass-clad staircase enclosure. The proposed development presents a blank wall opposite the remaining window in the rear rooms at ground, first, and second floor levels. The proposed additional storey necessitates the alteration of an existing window to form a door opening to link the two elements. Reference to policy CHC2 and section 11.1.5.3 of the development plan. Refusal recommended on the grounds that the demolition of the rear annex will give rise to a loss of historic fabric and adversely affect the setting and architectural character of the protected structure.

- 3.2.4. **Planning Report:** Notes the difference between this subject application and the previously permitted application is the demolition of the C19th annex and the construction of a new three storey over basement structure. Report states that there are serious concerns regarding the demolition within the curtilage of the protected structure and within a designated National Monument. The additional floor will lead to the removal of an original window and the construction of a block wall within 2m of the main building. Notes that a glazed stairwell in the previously approved development has been replaced with additional office space. Serious concerns that attempt to go higher and wider than previously approved represents over development. Notes the recommendation of the Conservation Officer to refuse permission. Recommendation to refuse permission.

3.3. **Prescribed Bodies**

- 3.3.1. **Transport Infrastructure Ireland:** Development falls within the section 49 Luas Cross City (St. Stephens Green to Broombridge Line) contribution scheme. If the proposed development is to be granted and is not exempt, a condition requiring a levy should be attached.

3.4. **Third Party Observations**

- 3.4.1. The tenant of the Art Gallery located in the rear two storey return section of the subject building. Gorry Gallery has been operating from this premises for 78 years with ten years of the lease to run. No consultation regarding the proposed

development was carried out. The proposed development would utterly change the character of the gallery and the north light needed for the work carried out.

4.0 Planning History

- 4.1.1. **PL29S.247893**: Planning permission was granted for the construction of a three-storey lightweight structure around the rear two storey return at 20 Molesworth Street. The new structure will be at basement, ground and first floor level and will be used as an office at each floor in association with the use of the remainder of the building as office use. The proposal involves the demolition of some existing partitions and walls within the existing building links and the removal of roof and the rear window to the existing return. The new development extension will total 262 square metres in area.
- 4.1.2. **Planning Authority reg. ref. 4811/05** – Permission granted for internal repairs and upgrading of the fabric for fire safety purposes, cleaning, repair and repointing of brickwork to front and rear elevation, replacement of existing PVC windows with timber sash windows, repairs to block and stop stone surround to front entrance, external redecoration, essential repairs to roof of the building.

5.0 Policy Context

- 5.1. **Architectural Heritage Protection – Guidelines for Planning Authorities**
- 5.1.1. This guidance, which is a material consideration in the determination of applications, sets out comprehensive guidance for development in conservation areas and affecting protected structures. It promotes the principle of minimum intervention (Para.7.7.1) and emphasises that additions and other interventions to protected structures should be sympathetic to the earlier structure and of quality in themselves and should not cause damage to the fabric of the structure, whether in the long or short term (7.2.2).
- 5.1.2. With regard to **curtilage**, section 13.3.1 of the guidelines state that features within the curtilage and attendant grounds of a protected structure can make a significant contribution to the character of that structure. The designed landscape associated with a protected structure was often an intrinsic part of the original design concept and, as such, inseparable from the building. Where proposals are made for alterations to a designed landscape, ancillary buildings, structures or features within

the curtilage or attendant grounds of a protected structure, a site inspection should be carried out by the planning authority in order properly to understand the potential effects of the proposed development. **Section 13.3.2** states that when assessing the contribution of structures or features within the curtilage or attendant grounds to the character of a protected structure, and when considering any proposals to alter such features, certain criteria must be considered.

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

- 5.2.1. The site is located in an area zoned Z5-City Centre with the following objective: 'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'.
- 5.2.2. No 20 Molesworth Street is a Protected Structure (Ref No 8719 Record of Protected Structures Volume IV of the Plan) and is located within a Conservation Area.
- 5.2.3. **Policy CHC2** seeks to ensure that that the special interest of protected structures is protected. **Policy CHC5** seeks to protect Protected Structures and preserve the character and the setting of Architectural Conservation Areas and **Section 16.2.1** outlines the Planning Authority's Design Principles and Standards.
- 5.2.4. The policies of the Plan in relation to Protected Structures are set out in Section 11.1.5.1. The policies in respect to Conservation Areas are set out in Section 11.1.5.4. The policies seek to protect the structures of special interest which are included on the Record of Protected Structures and the special character of Conservation Areas.
- 5.2.5. No. 20 Molesworth is listed on the Sites and Monuments Record (SMR DU018-020260)

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- 6.1.1. A first party appeal against the decision of the Planning Authority to refuse permission was submitted to the Board by an agent for the applicant. The appeal is accompanied by the following copies of the application documentation submitted to the Planning Authority, Historic Building Report, Fire Consultant Report, revised application drawings and revised 3D Visuals.

6.1.2. The grounds of the appeal can be summarised as follows:

- The proposed development seeks to increase commercial density on an under-utilised site within a built-up city-centre area. The proposed development will add economic viability, sustaining the buildings futures and is a positive contribution.
- The proposed development is a modest increase in floor area and scale from that previously approved. The architectural merit of the building has been considered. The C19th annex is not worthy of retention and is not of architectural merit.
- Revised plans address the concerns of the Planning Authority – the fire rated partition at first floor level and the removal of the rear window at second floor level are now omitted.
- The proposed extension is set within a courtyard of 60's and 70's office buildings. This context dictates the shape, materiality, scale and massing of the proposal. The proposed plot ratio and site coverage are appropriate within this context.
- The applicant is happy to prepare an Archaeological Impact Assessment as a condition of a grant of planning permission.
- The Planning Authority's concerns regarding the demolition of the annex and the impact on the protected structure and recorded monument are dealt with by the revised proposals submitted to the Board. The currently proposed development omits the removal of the rear second and first floor windows, the elevation facing the original structure has been amended to include a light weight glazed stair core which would allow light to filter through the original building. Revised drawings indicate the daylight lines and view lines achieved. The proposed development is a modest increase from the previously permitted scheme.
- The report prepared by the Historic Building Consultant addresses the Conservation Officers concerns.
- The proposed development should be viewed as a significant benefit to the Protected Structure which requires a high degree of maintenance.

- To address the concerns of the Planning Authority regarding the passenger lift and two separate stairwells, the new light weight glazed stair core connects all levels.
- The proposed first floor plan has been revised to mitigate against the Conservation Officers comments regarding the partition wall. This wall has been omitted from the rear room and the connection through the first-floor window has been omitted, allowing for a visual appreciation of the room as a whole

6.2. Planning Authority Response

- 6.2.1. None on file.

7.0 Assessment

- 7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development including the various submissions on file. I am satisfied that the issues raised are as follows:

7.2. Principle of Development

- 7.2.1. The principle of developing the rear of the subject protected structure has been established by the Board's decision under PL29S.247893. The difference between the permitted application and the subject proposal is the extent of development of the rear annex and to the main structure.

Main Structure

- 7.2.2. Under the previously permitted development, as revised under further information (see drawing no.s 3.1.101revA, 3.1.101revA and 3.1.006revA) the extent of development within the main structure was the relocation of the partition wall at ground floor level to allow a wider corridor leading to the rear access, new partition walls at ground and first floor and the upgrading of other partition walls to comply with fire safety.
- 7.2.3. Under the subject proposal as amended by drawings submitted to the Board with the appeal, the proposed developments to the main protected structure are largely the same as those permitted. A permitted fire rated partition at first floor level is omitted

and the permitted removal of an existing partition wall on the second floor is also omitted.

- 7.2.4. In terms of the rear elevation of the protected structure, the permitted replacement of a window on the first floor with a door into the new office area is also omitted. Under the proposed development the rear window remains a window, looking into a glazed corridor to the new office space.
- 7.2.5. I concur with the finding of the City Council's assessment that the commercial use of this structure has supported its preservation and viability. I am satisfied that the proposed alterations to the protected structure are minor in nature and impact and have been assessed and deemed acceptable by the Board under the previous permission. The proposed alterations to the main structure of no. 20 Molesworth Street are acceptable and are in keeping with the conservation policies of the city development plan.

Rear Annex

- 7.2.6. Under the permitted development, development to the rear C19th annex was to occur around and over the existing walls. At basement level, the existing walls were to be retained and a new extension was permitted to be constructed over the existing open area on the north and east boundaries. A new glazed stair well was permitted to access a new first floor office space. The Board considered that the development would facilitate the sustained use of the existing building without compromising its setting or context.
- 7.2.7. Permission is now sought to demolish the entire rear annex and construct a new three storey over basement structure, linked to the main building by a glazed corridor. This raises two issues to be addressed: the impact of the demolition of the annex on the recorded monument and the addition of an extra floor of office space over that previously permitted by the Board.

7.3. Impact on Archaeology and Conservation

- 7.3.1. In their reason for refusal the Planning Authority state that the proposed four storey structure to the rear would dominate the protected structure and would adversely affect its architectural and cultural significance, and that would it represent over development of this sensitive site.

- 7.3.2. In terms of the demolition, I note the report of the DCC Conservation Officer dated 29/01/2018. The report states that the existing two storey annex is subservient to the main building and is an interesting and important record of the narrative of no. 20. The report states that the impact of three-storey permitted development would be alleviated by the use of a glass-clad staircase.
- 7.3.3. The visible significance of the rear annex would be entirely removed by the permitted development. The permitted development around and over the walls to be retained would leave no obvious trace of the annex from the outside. To the untrained eye, the annex would appear as have been removed – or demolished. From the context of the internal courtyard created within this section of Molesworth Street, there would be no record left of the annex. The impact of the permitted development would be as if the annex had been demolished. I concur with the finding of the Board under that decision, that this development of the rear annex would not detract from the character or setting of the Protected Structure or the character of the Conservation Area and would not impact on the visual amenities of the area.
- 7.3.4. I am satisfied that the impact of the currently proposed development will be the same. From the streetside of Molesworth street, there is no evidence of the existing annex. This will remain the case for the proposed development – the front elevation of this protected Dutch Billy building will remain the defining characteristic of the building. The proposed four storey building to the rear will not be seen. From within the courtyard, the proposed development would appear as an entirely new development – just as is the case with the permitted development.
- 7.3.5. The concerns of the Conservation Officer and the Planning Authority regarding the mass and bulk of the proposed development adjoining the protected structure have been addressed by a proposed glazed stair core on the eastern elevation. This will allow light penetration to the rear windows of the protected structure and alleviate the visual impact of the proposed development. The proposed use of three finishes (existing brick boundary at basement level, light grey render at ground and first floor level and copper cladding on the set-back second floor) alleviates the scale and bulk of the proposed structure, whilst clearly demarcating the new entry in the built environment record of the protected structure.

- 7.3.6. I am satisfied that the proposed demolition of the C19th annex to the rear of no. 20 will not adversely impact the architectural or cultural significance of the protected structure and is in keeping with the zoning objective for the area.
- 7.3.7. Should the Board decide to grant permission a condition requiring comprehensive monitoring of the demolition and construction should be attached.

7.4. Extent of Development

- 7.4.1. The Planning Authority stated in their reason for refusal that the proposed development represented over-development of this sensitive site. The proposed development seeks to add a second floor and increase the footprint of the ground and first floor levels of the permitted development. At basement level, the proposed development is slightly reduced from that permitted, with an increased external yard area and the setting-back of the northern elevation to allow for an emergency access from the basement to the ground level.
- 7.4.2. The proposed development extends approx. 1m further north and east at ground and first floor level, from that permitted by the Board. An entirely new 83sq.m second floor is proposed. The increase in height from that permitted is approx.3m.
- 7.4.3. In responding to the decision of the Planning Authority to refuse permission, a report was submitted to the Board from an Architect / Historic Building Consultant. The report states that the context and setting to the rear of the protected structure comprises five storey C20th office blocks on three sides. It is stated that the setting of the protected structure is irreversibly compromised and that the proposed four storey building will have a neutral impact on the setting of the Dutch Billy.
- 7.4.4. In the context of 5-storey C19th office blocks and the four storey over basement buildings fronting onto Molesworth Street, the proposed four storey building would not challenge the dominance of the protected structure. The proposed building would clearly read as a subservient new addition into the centre of the perimeter block. The clear demarcation in terms of finishes and architectural treatment allows the rear elevation of the protected structure to remain true to its form. I am satisfied that the proposed increase in scale and height is not material and does not significantly deviate from the Boards appraisal of the previous application.

- 7.4.5. The proposed development is considered to be in keeping with the pattern of development in the area, would not adversely affect the protected structures on Molesworth Street or the Conservation Area and would not detract from the visual amenities of the area.

8.0 Appropriate Assessment

- 8.1.1. Having regard to the location of the development within a built-up area, the nature and scale of the development and the separation distance from the Natura 2000 sites, I consider that the proposed development, either alone or in combination with other plans or projects, does not have the potential to impact adversely on the qualifying interests of any Natura 2000 site. Stage 2 Appropriate Assessment is not therefore required.

9.0 Recommendation

- 9.1.1. I recommend that permission be granted for the development for the reasons and considerations set out below.

10.0 Reasons and Considerations

- 10.1.1. Having regard to the zoning provisions for the area - 'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity' and the works proposed which will facilitate the sustainable use of the existing building, it is considered that, subject to compliance with the conditions set out below, the proposed development would not detract from the character or setting of the Protected Structure or the character of the Conservation Area, would not impact on the visual amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 received by An Bord Pleanála on the 26th day of February, 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 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 interests of clarity.

- 2 The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

3. A suitably qualified conservation architect Grade 1 or 2 shall be employed to manage, monitor and implement works on the site and ensure adequate protection of historic fabric during the works. All permitted works shall be designed to cause minimum interference to the building structure and/or fabric. The works shall be carried out in accordance with best conservation practice as detailed in the 'Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in October, 2011. Items that have to be removed for repair shall be

recorded, catalogued and numbered prior to removal to allow for authentic reinstatement. All original features not part of the works shall be protected during the refurbishment.

Reason: To ensure that the integrity of the protected structure is maintained and protected from unnecessary damage or loss of fabric

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

Reason: To ensure adequate servicing of the development and to prevent pollution.

- 5 No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunications aerials, antennas or equipment.

Reason: In the interest of visual amenity.

6. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, noise/vibration monitoring and management and traffic management measures.

Reason: In the interests of public safety and residential amenity.

- 8 Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance

with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

- 10 The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City – St. Stephens Green to Broombridge Line - in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning

authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Gillian Kane
Senior Planning Inspector

29 June 2018