



An
Bord
Pleanála

Inspector's Report ABP-302513-18

Development	Permission for a new 4sqm rear extension to first floor bedroom to previously granted permission 2694/18 and 0058/18,
Location	19, Herbert Road, Ballsbridge, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3348/18
Applicant(s)	Ralph Bingham and Hilary Barry.
Type of Application	Permission.
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Argenta Limited.
Observer(s)	None.
Date of Site Inspection	30 th November 2018.
Inspector	Paul Caprani

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1.0 Site Location and Description

- 1.1. The appeal site is located on the southern side of Herbert Road in Ballsbridge. It accommodates a relatively large two-storey detached dwelling dating from the late early 20th Century. The house is surrounded by c.1.5m high walls and faces east onto the entrance to a small residential development, comprising of a terrace of 6 no. 2-storey dwellings to the rear, Herbert Mews.
- 1.2. No 19 accommodates living accommodation at ground floor level and 3 bedrooms at first floor level. The family room to the rear of the house at ground floor is single storey with a flat asphalt roof. A modest courtyard area is located to the front (east) of the house, and a semi-circular courtyard area is located to the side (south of the site).
- 1.3. Herbert Mews comprises of a terrace of 6 no. two storey flat roof modest sized dwellings which face northwards towards the appeal site. The separation distance between the front of the mews dwellings and the southern elevation of the dwelling is c.13 meters. The area between the dwelling and the mews development comprises of a landscaped area of private open spaces associated with the mews development.

2.0 Proposed Development

- 2.1. Planning permission is sought for the following alterations and additions to the dwelling.
- 2.2. – A small extension to the family room to the rear at ground floor level infilling the area between the living room and the family room and breaking out the wall between both rooms.
- 2.3. – Altering the fenestration arrangements in the kitchen area on the Herbert Road (northern) elevation at ground floor level together with a new utility room.
- 2.4. – Extending bedroom no. 1 by 4 sq.m at the rear of the house at first floor level. The bedroom is to be extended above the single storey element at the south-western corner of the house.

- 2.5. – Replacement of the existing flat roof with a pitched roof and gable walls to provide 21.5 sq.m of attic space above bedroom no. 1 with a 9.5 sq.m roof terrace.
- 2.6. – Widening of access gates serving the dwelling.

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council issued notification to grant permission subject to 8 standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The planners report sets out the policy provisions relating to the site and its surroundings and notes the planning history relating to the site (see below). In terms of the extension, the reports states that the proposal constitutes a modest extension and is acceptable. The alterations to the roof profile is also considered to be visually acceptable and represents a considerable improvement over the mansard type roof which was previously refused on site (see planning history below). Overall therefore the Dublin City Council planner's report considered the application to be acceptable notwithstanding the submission on file objecting to the proposal.

3.2.3. Other Technical Reports

Drainage Department – no objection subject to conditions.

Roads & Traffic Planning Division Report – Requested further information on the potential impact of the widening of the vehicular entrance on the pay and display street parking on Herbert Road.

3.3. Prescribed Bodies

There are no reports from proscribed bodies on file.

3.4. Third Party Observations

One third party observation was received from the current appellants, the contents of which has been read and notices.

4.0 Planning History

- 4.1. There are no planning appeals files attached. Details of the relevant planning history is set out in the planners report and is summarised below:
- 4.2. Under Reg. Ref. 2684/18, DCC granted permission for modifications and a minor extension to the dwelling at 19 Herbert Road including the demolition of the boiler house and the construction of a new store room as well and the reconfiguration of internal rooms within the house.
- 4.3. Under Reg Ref. 4282/17 DCC refused permission for the following works: (i) demolition of boiler room (ii) Construction of new 7.8 sq. m store room.(iii) 5.4 sq.m to ground floor (iv) 10 sq.m extension to bedroom at first floor level.(v) New 27 sq,m bedroom at 2nd floor level within a new mansard roof.
- 4.4. DCC refused permission on the grounds that the proposed mansard/dormer roof would be visually obtrusive and would be incongruous with the character of surrounding properties. The refusal also stated that the proposal would constitute an over-development of the site with limited private open space and would therefore be seriously injurious to the residential amenities of the area.

5.0 Policy Context

5.1. Development Plan

- 5.2. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016 – 2022. The subject site is zoned Z2 – “to protect, and/or improve the amenities of residential conservation areas”.
- 5.3. Section 16.10.12 of the development plan specifically relates to extensions and alterations to dwellings.

It states that the design of residential extensions should have regard to the amenities of adjoining properties and in particular the need for light and privacy. In addition, the form of the existing building should be followed as closely as possible, and the development should integrate with the existing building through the use of similar finishes and windows. Extensions should be subordinate in terms scale to the main unit.

- 5.4. Applications for planning permission to extend dwellings will only be granted where the planning authority is satisfied that the proposal will:
- Not have an adverse impact on the scale and character of the dwelling.
 - Not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.
- 5.5. Further details in relation to extensions and alterations to dwellings and roof profiles are contained in Appendix 17 of the development plan.

5.6. **Natural Heritage Designations**

There are no natural heritage designations near the site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The decision of Dublin City Council was the subject of a third-party appeal by Argenta Ltd – The Management Company for Herbert Mews, (the dwellings to the rear of the subject site). The grounds of appeal are outlined below:

- The proposal constitutes a gross over-development of the subject site. No 19 is visually prominent as it is located well forward of the building line and “reads” as a gate lodge-type building in location and scale.
- The new builds are excessive, obtrusive, dominant and oppressive in scale with a 42% increase in the internal floor area of the building.

- All private housing, including the Sandymount Hotel to the north-west, comprise of two-storey dwellings well set back from the public road. Housing in the surrounding streets are predominantly 2-storey. The proposal fails to respect the prevailing 2-storey, low density character which prevails in the area.
- It will represent an unacceptable visual intrusion on the residential amenity of the mews and will also reduce daylight values in the mews.
- The separation distance between the proposed extension at No. 19 and the front elevation of No.'s 4-6 Herbert Mews is 11m, about half the recommended separation distance set out in the guidelines.
- The development plan is clear in stating that planning permission will only be granted for developments which will not impact on surrounding residential amenities enjoyed by occupants. In granting planning permission for the proposal, Dublin City Council have flagrantly disregarded its own development plan.
- For the above reasons it is recommended that planning permission be refused for the development.

6.2. Applicants Response

MOLA Architecture submitted the following response to the grounds of appeal on behalf of the applicant.

- The applicant offered on a number of occasions to meet with the appellant in order to address any concerns in relation to the development. However, the appellant failed to respond.
- The response goes no to summarise the concerns set out in the grounds of appeal and the conclusions reached in the Local Authority Planners report that the proposal is acceptable.
- The proposal is modest in scale. The development with the proposal covers only 53% of the site area and has a plot ratio of 0.9. For these reasons it cannot be considered to constitute over-development of the site.

- The introduction of a matching gable wall and a pitched roof over the existing flat roof will improve the aesthetic appearance of the house and the streetscape in this residential conservation area.
- The proposal results in an increase in the gross floor area of the house of only 14% and not 42% as stated in the grounds of appeal.
- There are 2 storey over basement houses in the immediate area. The proposed development remains two storey with attic space. It can in no way be considered incongruous in the context of the existing character of the area. The height is typical of a normal 2 -storey dwelling.
- The incorporation of a new pitched roof fully respects the character of the area and is a significant visual improvement on the flat roof.
- The house sits to the north of the mews houses and therefore will not in any way impact on amenity in terms of overshadowing or sunlight penetration.
- In terms of overlooking, it is suggested that the applicant's amenity is compromised by overlooking from the mews dwellings. Reference is made to the original grant of planning permission for the mews development in 1977 (reg ref. 1605/77) and in particular, condition no.11 of that permission which required fenestration arrangements at first floor level of the mews dwellings to be such, so as to ensure that no overlooking takes place into the rear of no.19. It appears, according to the applicant's response to the grounds of appeal, that the mews development was undertaken in contravention of this condition. Furthermore, it is stated that there is in excess of 13m separation distance between the house and the mews dwellings.
- Any reference to the 22m separation distance is not relevant in this instance and this guidance is not applicable in a front to rear garden scenario in a city location. In addition, the applicants have included a privacy screen on the boundary, to give privacy to both parties.
- This is the third application on site and it fully addresses the concerns of the raised in DCC's previous reasons for refusal.

- In terms of private open space, the response states that the private open space within the site is marginally increased from 97 sq.m to 99.3 sq.m with the provision of a second-floor terraced area.
- Details of the original grant of planning permission for the 6 two-storey maisonette dwellings at Herbert Mews granted in 1977 is attached to the response.

6.3. **Planning Authority Response**

- It appears that Dublin City Council did not submit a response to the grounds of appeal

6.4. **Observations**

- No observations have been submitted in respect of the appeal.

6.5. **Further Responses**

A further response was submitted on behalf of the appellants by Argenta Ltd. The salient points are set out below:

- It is acknowledged that not all buildings in the area are two-storey, however two-storey dwellings are the predominant form of buildings in the area. It is argued that it is obvious from the drawings that the proposed attic area constitutes a new third floor within the pitched roof.
- In calculating the floor area of the proposed development, the applicant fails to take into consideration built and permitted development on site that falls under the Exempted Development Regulations
- Any reference to historical planning consents associated with the existing mews development is not strictly pertinent as the appellant only acquired the properties in question in the recent past.

7.0 Assessment

7.1. I have read the entire content of the file and visited the subject site and its surroundings. I consider that the Board can restrict its deliberations specifically to the issues raised in the grounds of appeal, namely:

- Over-development of the subject site.
- Obtrusiveness of the proposed extension in the context of the existing streetscape.
- Overlooking and overshadowing issues.
- Private open space provision within the curtilage of the dwelling.

7.2. Over Development of the Subject Site.

7.2.1. The grounds of appeal argue that the proposal constitutes an over-development of a prominent site on Herbert Road. The site is somewhat prominent due to the fact that it is located adjacent to the road side, whereas the predominant building line is set back along Herbert Road. Notwithstanding this point, the size and scale of the proposed alterations and extension is relatively modest. It does not involve any material increase in the footprint of the building, it merely seeks to extend a bedroom at first floor level and create a new attic space within a proposed new roof pitch.

7.2.2. The appellant suggests that the percentage increase in floor area is excessive at 42%. In computing this figure the appellant makes reference to works which have already been carried out under the exempted development provisions of the Act and further intended works under to be carried out at some future date. In assessing the proposal, the Board should in my view, only have regard to the application for works before it, which in essence amounts to an increase in a bedroom area of 4 sq.m and the provision of attic space of 21 sq.m. This in my view is not a significant addition to the floor area of the house. It results in an increase in floor area of about 14%. The proposal will result in a site coverage of 53% and a plot ratio of 0.9. The plot ratio is within permissible standards set out in the development plan (0.5-2.0 for lands zoned Z2) and while the site coverage marginally exceeds the development plan standard of 45%. The Board will note however that the development does not increase the site

coverage to any appreciable extent. I am therefore satisfied that the proposal does not constitute an over development of the site.

7.3. Obtrusiveness of the proposed extension in the context of the existing streetscape.

7.3.1. The incorporation of a new roof pitch will not result in any significant increase in the overall height of the building, particularly when viewed from Herbert Road, where the existing two-storey flat roof structure faces onto the road. In fact, I consider that the incorporation of a new pitched roof will provide a greater symmetry to the roof profile, creating a double-gable ended roof profile facing onto Herbert Road, thus, improving the visual appearance of the building. Currently the flat roof structure is at odds and is incongruous with the predominant roof profiles of the area. The two storey element to the rear is set back from the boundary and as such will not be overbearing in terms of its mass and bulk. The attic accommodation will not be readily apparent within the roof pitch and therefore will not provide the appearance of a three-storey structure as suggested in the grounds of appeal. From a visual point of view therefore, the building is deemed to be acceptable.

7.4. Overlooking and overshadowing issues.

7.4.1. I do not anticipate that any overshadowing issues will occur as a result of the proposed development due to the separation distances between the buildings in question and more importantly the location of no.19 to the north of the mews dwellings. Overshadowing therefore is not a material issue in determining the appeal before the Board.

7.4.2. Regarding the issue of overlooking, it is acknowledged that there is a modest separation distance between the applicants dwelling and the mews development at c.13m. It appears that this issue was highlighted in the original application for the 6 mews units and was addressed by way of condition no.11 of the grant of permission. It appears however that this condition may not have been complied with. Notwithstanding this, the proposal will not result in any additional windows at first floor level which will overlook the mews development. It will result in the relocation of the existing window serving bedroom no.1 being moved approximately 2 meters.

This in my view will only marginally increase the potential for overlooking. It does not in my view constitute reasonable grounds for refusal. The concealed terrace at 2nd floor level, incorporates a 2-meter-high gable wall which will prohibit the potential for overlooking. In conclusion, therefore the appellants residential amenities will not be materially impacted upon in terms of overlooking and overshadowing.

7.5. Private Open Space provision

- 7.5.1. The proposal does not increase the footprint of the building to any material extent. The residual courtyard area around the house will be retained, other than a slight reduction in the storage yard area of c.2.4 sq.m. The incorporation of a 9 sq.m terraced area at 2nd floor level will result in an increase in private open space provision.

8.0 Recommendation

- 8.1. Arising from my assessment above, I consider the proposed extension and alterations to be acceptable. Any adverse impact arising from the proposal on the amenities of the mews dwellings will be marginal and must be balanced against the reasonable expectation to permit the occupants to adapt and extend existing residential houses to suit family needs. I therefore recommend that the Board uphold the decision of the planning authority and grant planning permission for the development.

9.0 Appropriate Assessment

- 9.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity 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 a European site.

10.0 EIA Screening Determination

- 10.1. The proposal does not fall within a class of development for which EIA is required.

11.0 Reasons and Considerations

Having regard to the residential zoning objective relating to the site, it is considered that the proposed development, subject to conditions set out below would not seriously injure the amenities of the area or property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the 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. 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.

3. Site development and building works shall be carried out only between the hours of 7 a.m. to 6 p.m. Monday to Friday, 8 a.m. to 2 p.m. Saturday and not at all on Sundays or 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. The external finishes of the proposed extension (including roof tiles/slates) shall

be the same as those of the existing dwelling in respect of colour and texture. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity

6. Prior to the commencement of development, the developer will comply with any requirements of the Roads and Traffic Planning Division.

Reason: In the interests of traffic safety.

7. The Maximum width of the vehicular entrance shall be 3.6 meters.

Reason: In the interests of traffic safety

Paul Caprani
Senior Planning Inspector

1st December 2018