



An  
Bord  
Pleanála

## Inspector's Report ABP-302896-18

### Development

PROTECTED STRUCTURE:

Construction of first floor extension to the existing garage to rear of property, including 4 no. new roof-lights.

### Location

131, North Circular Road, Dublin 7

### Planning Authority

Dublin City Council North

### Planning Authority Reg. Ref.

3231/18

### Applicant(s)

Giuseppe Masturzo

### Type of Application

Permission

### Planning Authority Decision

### Type of Appeal

First Party

### Appellant(s)

Giuseppe Masturzo

### Observer(s)

NCR Residents Group

### Date of Site Inspection

6 February 2019

### Inspector

John Desmond

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## 1.0 Site Location and Description

- 1.1. The application relates to a 3-storey mid-terraced property on North Circular Road, c.60m north of the junction of Blackhorse Avenue and Aughrim Street. The existing property dates from the Edwardian period (c.1900) and comprises part an imposing 3-storey redbrick terrace.
- 1.2. There is a single-storey, flat-roofed garage of c.45.5-sq.m GFA, located at the rear of the property along a mews lane serving the terrace and extending the full width (c.7.09m) of the property. A shed structure was constructed in this location by 1936. There are similar structures to the rear of a number of neighbouring on the terrace, including the neighbouring properties to the north (nos.133 and 135). Those two structures are of 1½ to 2-storey in height and of apex roof design, are more typical of traditional mews buildings and date from the early period of the terrace, being indicated on the 1:25' OS map for the area dating from c.1907.

## 2.0 Proposed Development

- 2.1. Summary description - It is proposed to erect a first-floor extension of c.39.5-sq.m above the existing garage structure.
- 2.2. Supporting documentation
  - Cover letter prepared by MESH Architects
  - Architectural Heritage Impact Assessment prepared by MESH Architects, RIAI Grad 1 architectural conservation practice

## 3.0 Planning Authority Decision

### 3.1. Decision

To **REFUSE** permission for 1no. reason as follows:

Incompatible with the established character of the area (the historic laneway) and the protected structure by reason of inappropriate detailing, would consequently seriously injure the amenities of properties in the vicinity, set an undesirable

precedent and be contrary to the 'Z2' zoning objective to protect and / or improve the amenities of residential conservation areas.

### **3.2. Further information**

Requested the applicant to address concerns regarding impact on window to neighbouring coach house and to submit details of proposed external finishes and service drawings for proposed laundry room (07/08/18).

### **3.3. Planning Authority Reports**

#### **3.3.1. Planning Reports**

The final report of the planning officer (03/10/18) is consistent with the decision of the planning authority to refuse permission and the reason therefore.

The first report of the planning officer (02/08/18) is consistent with the decision of the planning authority to seek further information on 2no. points.

#### **3.3.2. Other Technical Reports**

Conservation officer– The final report (28/09/18) recommended refusal for reason attaching to the decision of the planning authority. The initial report (30/07/18) recommended further information be sought, as per the further information request issued 07/08/18.

Drainage Department – Report of 12/06/18 raised no objection subject to standard conditions.

### **3.4. Prescribed Bodies**

TII (09/07/18) – no observations to make.

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

An observation was received (12/07/18) from Dr Anthony O'Riordan of Divine World Ministries (no.133 NCR) supporting the application.

An observation was received (11/07/18) from NCR and Area Residents' Group requesting that permission be refused as per reason for refusal no.2 of decision reg.ref.33476/17.

## 4.0 Planning History

**Reg.ref.2161/18** – Permission **GRANTED** by the planning authority for removal of non-original extensions and modifications to Protected Structure dwellinghouse.

**Reg.ref.3346/17** – Permission **REFUSED** by the planning authority (3no. reasons) for, inter alia, extensions and alterations to Protected Structure dwellinghouse and erection of first floor extension of 39.5-sq.m extension to existing single-storey garage. The 2<sup>nd</sup> reason for refusal related to the proposed garage extension being incompatible with the established character of the area and Protected Structure, would seriously injure amenities of neighbouring properties and be contrary to Z2 zoning objective.

**PL29N.205355 / Reg.Ref.4668/03** – Permission **GRANTED** by the Board, upholding the decision of the planning authority to grant permission for, inter alia, pitched roof and first floor extension to existing garage to the rear.

## 5.0 Policy Context

### 5.1. Development Plan

Dublin City Development Plan 2016-2020

Land use zoning objective Z2 residential conservation areas – to protect and / or improve residential conservation areas.

Chapter 11 Built Heritage and Culture: Policies CHC2 and CHC4

Chapter 16 Development Standards: S.16.10.16 Mews Dwellings

### 5.2. Natural Heritage Designations

South Dublin Bay and River Tolka Estuary site code 004024 c.4.1km to the east.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The main grounds of this first party appeal may be summarised as follow:

- An Bord Pleanála's database (PL29N.205355) shows that the gable window to the neighbouring shed (at no.133 NCR) was blocked up from the inside at least 15 years ago and currently remains so. Mesh Architects and the applicant's solicitor, Mark Regan, are in agreement that the owner of no.133 NCR no longer has a right to this as an opening.
- The applicant has returned no.133 NCR from bedsits to a single-family occupancy dwellinghouse since acquiring it in 2016, with substantial refurbishment following the advice of a Grade 1 conservation architect, including the reversing of many modern additions and modifications as per permission Reg.Reg.2161/18, including the removal of a utility room which had housed laundry facilities.
- It is intended to rehouse the laundry function in the proposed extended garage / store in order to minimise the impact on the character of the Protected Structure.
- The roof height is to match the ridge level of the original coach-house at no.133, adjacent, deferring to the scale and roof typology of same to maintain a consistent face to the mews lane and terrace, including matching eaves and ridge height in level and detail. The eaves to the garden side will be much lower due to the larger footprint of the structure.
- The storage function of the garage remains as current, with an added function of utility room function removed from the dwellinghouse.
- The existing neighbouring coach houses are what remains of mews lane coach houses and are Protected Structures contributing to the special character of the Z2 zone and the proposed development would reinforce the established character of same. The planner's report refers to these structures as not having planning permission.

- Mesh Architects are not aware of any reason that the detail of the proposed laundry room should result in the refusal of permission.
- The Conservation Officer's report refers to s.16.10.16(e) of the DCDP 2016-2020 in concluding that the proposed materials are not adequate within the context, however this section refers to mews dwellings. There are no mews dwellings on this terrace and the garage in question is not a dwelling and none of these structures were designed for human habitation as is evidenced by the vehicular entrances to the laneway (Appendix A of appeal refers).
- The proposed development would improve the amenity of this run-down residential area.
- The proposed store with vehicular access and no windows to the laneway follows the established format of the historic coach houses, including scale and pitched roof format and defers to existing precedent.
- The only identifiable historic aspects on the mews lane are the existing building heights and small amount of stone wall several houses away. Surely following the precedent typology and eaves of the existing coach houses would be a way to maintain and enhance the remaining historic qualities (Appendices A, C & D refer).
- The property did not have an original coach house, the garage was not built with any particular regard to its surroundings, and the proposed development would be a vast improvement on this currently shabby mews lane.
- The rendered blockwork, fibrous cement roof tiles and dark grey rainwater goods were selected to reasonably match the palette of coach house at no.133 (Appendices A, C & D refer).
- The laneway is of particularly poor amenity, with half-hearted upkeep and sporadic adjacent development.
- The primary intention in extending the shed was to improve the appearance of the property and his partly-owned mews lane and ensure his family can enjoy the garden securely (adolescents have used his garage as a way of climbing into his rear garden).



- The proposed development would most certainly improve the amenity of this run-down area.
- Policy CHC4 recognises enhancement opportunities in conservation areas may include replacement or improvement of any building, feature or element which detracts from the character of the area. The applicant is attempting to comply with requirements of same.
- Regarding the Conservation Officer's report, it does not appear that the state of repair of the area surrounding the proposal has been reviewed in detail.
- The applicant would be happy to comply with a condition limiting materials to blue Bangor slate and timber window frames.

## 6.2. Planning Authority Response

None received.

## 6.3. Observations

The main points raised in the observation of NCR and Area Residents' Association, c/o MacCabe Durney Barnes, may be summarised as follow:

- Agrees with the reason for refusal.
- Notes that the structure is a Protected Structure and notes the Z2 zoning and site history.
- It is CDP policy CH2 not to cause harm to the curtilage of a Protect Structure.
- The garage structure and a number of elements to the rear side of the existing dwelling are out of character and the addition of a second level to the garage would consolidate and exacerbate the situation rather than improve it and be visual dominant and obtrusive.
- It can be hoped, as a better appreciation of the value of Protected Structures develop, that some of these additions might be removed and the rear restored or added to in a more sympathetic manner whist recreating an appropriate garden area.

- The addition of a second level would reduce available sunlight further, aggravating the overshadowing of the garden caused by the house.
- Visual overdevelopment within a confined rear garden.
- The rear garden is only 11.3m in length, more or less equivalent to that of a modern 2-storey house.
- Regarding alleged precedent, there is no record of permission or the neighbouring mews structures and permission PL29N.205355 was granted when the DCDP 1999 did not include comprehensive wording to protect Protected Structures and their curtilage, and the inspector's report did not assess the impact of the enlarged garage on the curtilage.
- Adverse impact on amenity of property on facing side of lane, within 4m, resulting in overlooking and overshadowing.
- Encroachment on neighbouring property.
- Further potential use including residential.
- Letter attached from Fr Timothy Lehane SVD, Provincial, indicating that the Trustees, the legal owners, have not given permission for works including the compromising of the window space to the side of the coach house on that property and that, although the window has not been used for some years, the Trustees are not prepared to surrender it as it could impact on the possible future uses for the building.

## 7.0 Assessment

I consider that the issues arising under this appeal may be addressed under the following headings:

- 7.1 Policy / principle
- 7.2 Conservation issue
- 7.3 Impact on amenities
- 7.4 EIA Screening
- 7.5 AA Screening

## 7.1. Policy / principle

- 7.1.1. The principle of extending a domestic garage structure associated with a residential dwelling is acceptable within the land use zone Z2 residential conservation area, for which it is the objective under the Development Plan '*to protect and / or improve the amenities of residential conservation areas*', subject to consideration of built heritage and residential amenity issues.

## 7.2. Conservation issue

- 7.2.1. No.131 NCR is a Protected Structure. The applicant is in the process of returning the main dwelling, until recently set out as bedsits, back to a single-family residence, which must be considered a significant positive gain in terms of architectural conservation.
- 7.2.2. The existing garage / shed structure does not form part of the original, or early, fabric of the Protected Structure. No party, including the Council's conservation officer and planning officer, or third parties, has claimed that the said structure contributes positively to the character of the Protected Structure, to the mews lane or to the surrounding area. I consider it the said structure to have a negative impact in this regard.
- 7.2.3. I would agree with the appellant that the design of the proposed garage extension accords with the character of the two existing older mews lane / coach house buildings adjacent to the north, which are traditional mews structures. Externally they are finished in concrete render and natural slate tiles, with large steel gates to the lane, but with the only fenestration facing inwards towards the terrace. The two buildings would appear to be either original to the development of the terrace or constructed shortly thereafter. These two buildings are the only fully upstanding traditional mews buildings remaining on the lane, although mew lane wall to some of the properties incorporate the remains of others. The majority of structures along the lane are similar to the existing garage at no.131. The proposed extension design adopts the eaves and ridge height of the two neighbouring coach houses in its frontage to the mews.
- 7.2.4. The conservation officer takes issue with the proposal to use concrete roof tiles and the failure to provide details of the proposed materials for the replacement garage

door to the lane and the proposed windows, which, having regard to s.16.10.16 *Mews Dwellings* under the DCDP, forms the basis for her recommendation that permission be refused.

- 7.2.5. I would agree with the applicant that as the application does not include any proposal for a mews dwelling the requirements of section 16.10.16 are not applicable. Notwithstanding this, I consider the conservation officer's statement that '*the proposed works do not meet in any way, the requirements of* the subsection 16.10.16(e) to be an unfair and biased characterisation of the proposed development. The extended development would be consistent with the scale, massing and height of the neighbouring mews coach houses, would match the established building lines and be consistent with the original plot widths. The design adopts an almost identical roof structure to the existing coach houses and, despite that it is not convenient to the pre-existing footprint of the structure, proposes to match the rear roof slope of the coach houses; and the proposed openings (vehicular entrance) and wall finishes (render) are also consistent with those of the existing coach houses.
- 7.2.6. The design does not represent an innovative architectural response, but proposals for mews dwelling are not actually obliged to do so under the provisions of the said section of the Plan; it is merely advisory (*should*). It would be particularly onerous to require the applicant to provide for an innovative architectural response in extending the existing garage.
- 7.2.7. I would agree with the appellant that the provisions of Council policy CHC4 are relevant to the proposed development. The policy which recognises the replacement of improvement of any building or feature which detracts from the character of the conservation area or its setting as enhancement opportunities that can contribute positively to conservation areas. I consider the proposed amendments to the existing garage structure to contribute positively to the character and distinctiveness of this residential conservation area.
- 7.2.8. The most obvious departure from the character of the existing mews coach houses is that the proposed concrete roof tile finish would not match the traditional black / grey slate finish. This should be viewed in the context of the design of the existing structure with a shallow lean-to corrugated roof, topped by barbed wire. The

proposed development clearly represents a significant improvement to the mews lane. However, the applicant has indicated a willingness to finish the roof in blue Bangor slate and to provide timber framed windows if so desired by the Board. The finish to the vehicular entrance is not stated, but a metal finish would neither be detrimental to the character of the mews lane, nor inconsistent with the entrances to the neighbouring structures along the lane and it would be reasonable to permit a metal door for security along this gated mews lane within the site's broader context. In my professional opinion the proposed finishes are reasonable within the context of the proposed development and it is unnecessary to specify material finishes by condition.

### **7.3. Impact on amenities**

- 7.3.1. The proposed development would not adversely impact on the amenities of property in the surrounding area in terms of overlooking, visual intrusion, or overshadowing. Contrary to assertions in the third-party observation to the appeal, the garage extension would have almost no appreciable impact on sunlight access to the rear gardens to the terrace.
- 7.3.2. Whether the neighbouring mews structure to the northeast has a right to light to the blocked-up window in its southwest gable is a civil matter that cannot be determined by the Board. Section 34(13) of the Planning and Development Act 2000, as amended provides that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development.*' In the event of a grant of permission, it would be appropriate to attach a note in this regard.

### **7.4. EIA Screening**

- 7.4.1. The proposed development is not within a class under Part 1 or Part 2 of Schedule 5 of the Act and, accordingly, EIA is not required.

### **7.5. AA Screening**

- 7.5.1. Having regard to the small-scale nature of the development proposed within an existing built-up area of Dublin City, it is not considered that the proposed development would be likely to have a significant effect, directly or indirectly,

individually or in combination with other plans or projects on any European site. I consider no Appropriate Assessment issues to arise

## 8.0 Recommendation

8.1. I recommend that permission be **GRANTED** subject to the conditions set out under section 10.0, below.

## 9.0 Reasons and Considerations

Having regard to the nature, scale and design of the proposed extension and amendments to the existing garage structure, which follows that of the remaining historic mews garages to the north to a reasonable degree, it is considered that the proposed development would not adversely impact on the character and setting of a Protected Structure and would not adversely impact on the residential amenities of the area and would be consistent with the provisions of the Dublin City Development Plan 2016-2020 concerning such development and with the land use zoning objective Z2 to protect and / or improve the amenities of residential conservation areas.

## 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 6th day of September 2018, except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

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

Note: Section 34(13) of the Planning and Development Act 2000, as amended provides that *'A person shall not be entitled solely by reason of a permission under this section to carry out any development.'*

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John Desmond  
Senior Planning Inspector

6 February 2019