



An  
Bord  
Pleanála

## Inspector's Report ABP-302969-18

### Development

PROTECTED STRUCTURE:

Retention of roof terrace with timber screen, access door, external stairs & all associated site works.

### Location

21, Belgrave Square, Rathmines,  
Dublin 6

### Planning Authority

Dublin City Council South

### Planning Authority Reg. Ref.

2699/18

### Applicant(s)

Margaret Keane.

### Type of Application

Permission.

### Planning Authority Decision

Grant

### Type of Appeal

Third Party

### Appellant(s)

Patrick & Regina Whelan.

### Observer(s)

None.

### Date of Site Inspection

16<sup>th</sup> of January 2019.

### Inspector

Karen Hamilton

## 1.0 Site Location and Description

1.1. No. 21 Belgrave Square is a Victorian, mid-terrace, dwelling located along the southern side of Belgrave Square, Dublin 4. The dwelling has two storeys over basement to the front and three storeys over basement to the rear. The dwelling is accessed at the front by both the ground floor and the first floor. There is a long linear garden to the rear and a terrace leads out from the rear of the first floor to the garden.

## 2.0 Proposed Development

- 2.1. The proposed development comprises of the RETENTION of the following:
- Paved roof terrace over a single storey return,
  - 1.6m high timber screen around the roof terrace,
  - New access door to the first floor of the rear elevation,
  - External stairs providing direct access to the garden, and all associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to grant permission subject to 5 no. conditions of which the following are of note:

C 2- The development hereby permitted shall incorporate the following amendment:

The screens surrounding the perimeter of the roof terrace and either side of the external stairway shall be a minimum of 1.8m above the finished floor height. These amended screens shall be in place within 6 months of the decision date of this permission for retention.

Revised plans shall be submitted for the written approval of the planning authority prior to the commencement of development.

**Reason-** To protect the amenities of the occupiers of adjoining properties and ensure finishes are in keeping with the character of the Protected Structure.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The report of the area reflects the decision to grant permission, following the submission of further information detailed below.

#### Further Information Request

1. Confirmation that the house is currently used as one single unit.
2. The works carried out were bolted to No 22, Belgrave Square without the prior consent of the owners of No. 22, this was amended, and the applicant provided full details of the construction and methods used to secure the new paved roof terrace and screen. Furthermore the applicant should note that any works to the shared boundary is a civil matter and requires the full consent of the owner of the adjoining property.
3. The applicant submitted the following information:
  - a) Full structural appraisal , method statement, drawings and specification of the roof terrace proposal in order to assess the physical impact of the development on the Protected Structure and any potential physical impact on the Protected Structure at No 22 Belgrave Square, to ensure that the risk to original fabric was minimised.
  - b) A detailed justification document demonstrating the reason behind the removal of the original slated pitched roof over the rear return and the justification for its replacement with a flat roof, in order to assess the impact on the character and setting of the Protected Structure.

The report of the planner refers to the policies of the development plan, the overlooking on the adjoining property, and the report of the conservation officer and considered the terrace will not have a negative impact on the adjoining residential amenity.

#### 3.2.2. Other Technical Reports

Drainage Department- No objection subject to conditions

Conservation Officer- No objection to proposal.

### 3.3. **Prescribed Bodies**

None received.

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

One observation was submitted, by the appellant, and the issues raised are similar to those submitted in the grounds of appeal and include:

- Impact on protected structure,
- Impact on the residential amenity,
- Reconfiguration of two separate dwelling units,
- Drilling onto the adjoining dwelling without consent.

## 4.0 **Planning History**

### **Reg Ref 3961/14**

Planning permission granted for refurbishment and repair to the existing property.

### **Section 5 Declaration 0234/14**

Split decision where the removal and replacement of internal works was not required to receive planning permission and the renewal and repair of the existing mechanical and electrical fittings, relocation of the bathroom and the fitting of a new kitchen at ground floor level, examination and repair of foul and surface water drainage and strengthening of ground floor would require planning permission.

## 5.0 **Policy Context**

5.1. **Architectural Heritage Guidelines for Planning Authorities, 2004.** Guidelines for the development of Protected Structures and within Architectural Conservation Areas.

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

The site is located within an area zoned, Z2, Residential Conservation, where it is an objective “*To protect and/or improve residential conservation areas amenities*”.

The dwelling is a **Protected Structure**, and located within a residential conservation area, therefore the following policy and guidelines apply.

**Policy CHC1:** Preservation of the built heritage.

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

Development will conserve and enhance Protected Structures and their curtilage and changes of use which will have no detrimental impact on the special interest and are compatible with the future long-term conservation of the building.

**Policy CHC4 & CHC5:** Conservation Areas: Development will not harm the features of special interest in the conservation areas or involve harm to loss of traditional fabric.

**Section 11.1.5.8:** Demolition of Protected Structures and Buildings in Architectural Conservation Areas.

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

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

None relevant.

### 5.4. **Environmental Impact Assessment (EIA)**

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations and therefore is not subject to EIA requirements.

## 6.0 **The Appeal**

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

The grounds of appeal is submitted from the residents of the property to the west of the site and the issues raised are summarised as follows:

- A background to the site location and proposed development is provided.

- The ground floor of the dwelling is being used as a separate residential unit and the proposed development will facilitate this unauthorised development by linking the upper floors to the garden area.
- The proposed development will set an undesirable precedent for other further developments.
- Access onto the terrace is via a new door ope in the rear of a protected structure which has removed a great deal of original fabric.
- Condition No. 2 on the grant of permission, requiring the raising of the height of the screen to 1.8m, will not provide any additional screening or prevent any overlooking onto the adjoining properties.
- Condition No 2 does not specifically state that a new screen is required.
- An impact in the height of the screening would lead to a greater visual impact on the protected structure which would have a negative impact.
- The terrace and rear of the site is extremely visible from Belgrave Avenue.
- The conservation officer comments are noted.
- The applicant has had undue consideration for the planning process.
- The original roof on the rear return has been removed and the works are not justified from a conservation perspective.

## 6.2. Applicant Response

A response was received from an agent on behalf of the applicant and the issues raised are summarised below:

- A background to the proposed development is provided.
- The applicant is not against the inclusion of Condition No.2 and it is submitted that the 1.8m high obscure glazing would be located on the inside of the existing timber surround.
- The proposed development is in compliance with the zoning on the site (Z2) and the policies and objectives of the development plan (CHC1, CHC2 & CHC4).

- The DOE urban manual guidance recommends the use of obviation measures and it is noted that the terrace is located to the rear of the building line of the and the condition to increase the screening to 1.8m will eliminate any overlooking on the adjoining site.
- The comments from the Conservation Officer are noted in relation to the request for additional information and the comments on the further information submitted.
- In relation to the new opening for the door onto the screen, the report of the architect and Conservation Assessment responding to the further information is noted and the impact on the original fabric was considered as acceptable.
- The refurbishment of the dwelling was permitted under a previous permission Reg Ref 3961/14.
- The works to the dwelling comply with the DoCHG Guidelines on Architectural Heritage.
- The dwelling is currently in single residential occupancy although there are two letterboxes and two doorbells to the front of the dwelling from historical multiple occupancy.
- Although the works are unauthorised they have been undertaken in compliance with the statutory guidelines and development plan, as confirmed by conservation experts.
- There are a range of modern interventions to the rear of buildings in the vicinity which are inappropriate (examples provided).
- It is not considered there will be any noise nuisance from the proposed terrace as there is a three storey rear return at No 22 and in addition to the screening required by condition no 2 there will be no negative impact on the residential amenity.
- In relation to the loss of historic fabric it is of note that Section 6.8.2 of the Architectural Heritage Protection Guidelines states that if planning permission is to be granted for an extension it should not upset the symmetry of the building, this was accepted by the planning officer and the conservation officer.

- The use of No 20 Belgrave Square for 10 no residential units will have a greater significant impact on the vicinity rather than the retention of the proposed terrace.

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

None received.

### 6.4. **Observations**

None received.

### 6.5. **Further Responses**

A further response was submitted from the grounds of appeal in relation to the applicant's submission and also from the applicant in relation to the third party submission which was recirculated, and each response is summarised separately below:

#### 1. Third Party response to the applicant's submission.

- The terrace and stairs provides access to the first floor and there is also access to the ground floor from the rear.
- The sub-division of the house is relevant as the Board cannot grant retention permission if there is already unauthorised permission.
- The inclusion of two door bells and two letter boxes is clearly evident.
- The inclusion of an obscure screen behind the wooden structure will have a detrimental impact on the protected structure and requires assessment by the Conservation Officer.
- There is no justification for the applicant's statement that they comply with the Architectural Heritage Guidelines.
- There is no established pattern of development in the vicinity which is similar to this proposal.
- The new ope is required to make access for the terrace which is unsympathetic and at odds with the protected structure.



- A site inspection from the Boards Inspector is welcome.

### Conservation Assessment

- A conservation assessment accompanied the further response from the appellant.
  - The proposal includes the removal of the pitch from the ground floor extension for the new terrace, the opening of a new ope and the insertion of steps from the garden.
  - The new open changes the character of the room.
  - Section 6.8.2 of the national guidelines state that the symmetry of a building can be adversely compromised by new additions and the new opening is placed between the original window openings of an Irish Georgian form.
  - The proposed works have impacted the character of the protected structure and it is clear there is a non-reversible loss of original fabric.
  - The granting of permission would set an undesirable precedent for similar development.
  - It is stated in the conservation report that the original pitch of the first floor was in a poor state although this is not a sufficient enough reason for removal of any part of a protected structure. The correct approach would have been to replace the poor quality later materials with selected natural slates.
  - The terrace and screen is a new addition and will increase the visual impacts.
  - The precedent for accepting the removal of original fabric should be avoided and the proposal clearly involves a profound adjustment of character.
2. Applicant's response to third part submission.
- The single storey extension was never a return on the historic building and the loss of original character referenced in the third party submission is inaccurate.
  - The hipped slated roof, previously removed, was not part of the special interest of the protected structure.

- The use of the terrace and stairs allows the main living area to be used for daily living.
- The replacement door does not materially affect the exterior of the building.
- A recent permission (Reg Ref 4272/16) at Wellington Place, was granted for a similar development.
- The impact of the stairs on the protected structure is slight and is well screening from adjoining gardens.

## 7.0 **Assessment**

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

- Impact on the Built Heritage
- Impact on Residential Amenity
- Appropriate Assessment

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

7.2. No 21 Belgrave Square is a three storey mid terrace dwelling and is a protected structure. The proposed development includes the retention of an ope on the first floor to the rear of the dwelling, providing access to a terrace and stairs, which also forms part of the proposed development. The grounds of appeal are submitted by the residents of the property to the west, directly adjoining the site and the issues raised include the overall impact of the structure on the protected structure and character of the area. I have assessed the impact of the individual components of the proposed development below.

7.3. Door Opening: The proposal includes the retention of a new door opening from the first floor accessing the terrace, c. 1m wide and c. 2m in height. The existing dwelling has a number of windows to the rear which are not symmetrical in layout. Section 10.3 of the national guidelines “Architectural Heritage Protection, Guidelines for Planning Authorities” provides guidance for doors, where it is important to identify the function of the door and those special features for protection. In the case of No 21 Belgrave Square, I consider the existing rear windows form part of those features of special interest of the protected structure although having regard to the range of

sizes and location of the existing opes and the modest size of the new ope, I do not consider the new door has a significant negative impact on the character of the rear elevation.

- 7.4. Removal of the first floor roof: The roof of the first floor was removed to facilitate the paved terrace and a justification for its removal was submitted as a response to further information which included photographic evidence to illustrate that it was a modern addition to the protected structure. The report of the Conservation Officer noted this submission and had no additional comments or objections. Section 6.14 of the national guidance refers to retention permissions where the same consideration should be given to retention works as if they are being applied for as a permission. I note the initial design of the first floor rear extension and modern roof profile and I do not consider the removal would have a significant negative impact on the character of the protected structure.
- 7.5. Terrace- The roof of the ground floor extension has been removed and replaced with a paved terrace, surrounded by a c. 1.8m timber screen with stairs and timber railings leading to the rear garden. The terrace structure was attached to the side of No 22, adjoining property to the west, and following a further information request an engineer's report referred to the removal of the original roof, which was attached to the boundary with No. 22 and the use of a ring beam to support the roof terrace and railing which has no effect on the stability of No. 21. Section 7.7 of the national guidance requires to the need for minimum intervention on works to protected structure and I consider the submission of the photographs submitted with the further information provide evidence on the appropriate construction methods, illustrating the new cantilever screen which I consider a reasonable intervention to minimise any impact on the protected structure.
- 7.6. In relation to the attachment of the terrace onto No .22, Section 34(13) of the Planning and Development Act 2000, as amended, states, a person is not entitled solely by reason of a permission to carry out any development. The further information indicates these works were removed and since any grant of retention permission will be subject to the provisions of section 34(13), placing the onus on the applicant to be certain under civil law to have all necessary rights in the land to exercise the grant of permission and retention permission, I do not consider the works would have a significant negative impact on the adjoining protected structure.

7.7. The policies of the development plan, in particular CHC 2, CHC 5 and CHC5, require that no works will have a detrimental impact on the protected structure or conservation area. In addition to the physical intervention, the terrace has a visual impact on the rear of the dwelling. Having regard to the high quality and the height of the timber screens around the terrace and along the stairs I do not consider there will be a significant negative impact on the protected structure. The structure is visible from Belgrave Avenue, a prominent approach to the rear of the site, although I do not consider the terrace is visually overbearing and therefore do not consider it has a significant negative impact on the residential conservation area.

### **Impact on Residential Amenity**

7.8. The terrace is located on the first floor to the rear of the dwelling and the grounds of appeal are submitted from the residents of the property to the west, adjoining the site, who state the terrace has been erected to accommodate the subdivision of the dwelling and consider there is overlooking from the terrace which has a negative impact on their residential amenity. I have assessed both these issues separately below.

7.9. Subdivision of dwelling- Planning Permission was granted (Reg Ref 3961/14) for the refurbishment of No 21 Belgrave, including the fitting of a small kitchen on the ground floor. The property includes two access doors to the front of the dwelling, each with letter boxes and there is an existing kitchen on the first floor. The internal stairs flow from the basement to the first floor and there are no internal barriers to indicate any separation or subdivision of the property.

7.10. Overlooking on adjoining properties- The terrace extends from the first floor door to the rear of No 21. The side gable wall of No 22 bounds the paved terrace along the west and prevents any overlooking into the rear of the appellant's dwelling. There is currently mature planting along the west of the terrace area preventing any significant overlooking into the rear of No 22 rear garden, although the appellant notes that this can be removed at any stage. I consider a condition requiring the retention of this planting in perpetuity would ensure the integration with the terrace and stairs, preventing any possible overlooking. Whilst I could see into the rear garden of the appellant's dwelling from the rear stairs, I do not consider the overlooking is any more significant than from the rear windows of those properties at

either side of the dwelling and do not consider it has a significant negative impact on the amenity space of this property.

- 7.11. Condition No 2 of the permission requires the screens around the perimeter of the roof terrace and either side of the external stairs to be a minimum of 1.8m above the finished floor height, rather than the existing 1.6m and the report of the area planner considered this increase would further dispel any detrimental levels of noise nuisance. Having regard to my assessment above, I do not consider the increase in timber screen height would prevent any further overlooking, nor so I consider the proposal would lead to such an increase in noise to have a significant detrimental impact on the surrounding area.
- 7.12. Having regard to the scale and location of the terrace onto the rear of a private dwelling and subject to a condition requiring the retention of the existing landscaping, I do not consider the proposal would lead to a significant negative impact on the residential amenity of the surrounding area.

7.13. **Appropriate Assessment**

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 Z2 zoning objective for the area, the policies and objectives of the Dublin City Council Development Plan 2016-2022, the overall design and location of the proposed development and the pattern of development in the immediate vicinity it is considered that, subject to compliance with conditions below, the proposed development would not

seriously injure the residential amenities of the area or of property in the vicinity or have a negative impact on the character and setting of a protected structure or the conservation area. 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 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 out in accordance with the agreed particulars.

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

2. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. All trees and planting within and on the boundaries of the site shall be retained and maintained, with the exception of the following:

- (a) Specific trees, the removal of which is authorised in writing by the planning authority.

- (b) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage shall be replaced with agreed specimens.

Retained trees and planting shall be protected from damage and any planting which is damaged or dies shall be replaced with others of similar size and species, together with replacement planting required under paragraph (b) of this condition.

**Reason:** In the interest of visual and residential amenity

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Karen Hamilton  
Planning Inspector

18<sup>th</sup> of February 2019