



An
Bord
Pleanála

Inspector's Report ABP-303434-19

Development	PROTECTED STRUCTURE: Demolition of extension & construction of 3-storey extension and shed.
Location	39, Leeson Street Upper, Donnybrook, Dublin 4, DO4 T9W9
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2558/18
Applicant(s)	Ronan Ryan and Sinead Healy
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First V Conditions
Appellant(s)	Ronan Ryan and Sinead Healy
Observer(s)	None
Date of Site Inspection	12 th April 2019
Inspector	Ronan O'Connor

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1.0 Site Location and Description

- 1.1. The site is located on the south-western side of Leeson Street Upper. On site is a three storey mid-terrace residential building. The building is a Protected Structure.

2.0 Proposed Development

- 2.1. Demolition of extension & construction of 3-storey extension and shed.

3.0 Planning Authority Decision

3.1. Decision

Grant permission. A condition of note, and the subject of this appeal, is as follows:

Condition 2

The applicant shall comply with the following Conservation Section requirements:

(i) The applicant shall remove the proposed new third storey element from the proposal so that the proposal is now comprised of a two-storey rear extension. The applicant shall retain in full the second floor, walls and roof of the original rear return and to create an opening to from the return at first floor to connect to the new bedroom extension. It is advised that the applicant considers the relocation of a family bathroom within either the rear return at first floor or in bedroom R14 at second floor.

Reason: In order to protect the original fabric, integrity and character of the Protected Structure as well as the adjoining Protected Structure at No. 40, which was conceived and constructed as a twin to No. 39 and still fully retains its original historic rear return.

(ii) The applicant shall remove the proposed third floor shower room, associated window and new staircase to the shower room from the proposal.

Reason: In order to protect the original fabric, historic plan form, integrity and character of the Protected Structure.

Parts (iii), (iv) and (v) of the Condition relate to insulation material, the use of a conservation expert and best practice methods.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer reflects the decision of the planning authority.

Points of note are as follows:

- The main issue is the demolition of the three storey rear return and the impact on the character of the property and also the neighbouring property, as the return is part of a pair.
- There is no impact in relation to the demolition of the two storey extension given that it is not original and is of no architectural value.

Further Information was sought in relation to:

- Consideration of a revised proposal showing retention of the original third floor return/new extension should be no more than 2 stories in height.
- Revise size of the openings from the kitchen to the proposed new extension.
- Landscaping proposals.
- Revised drawings of shed.
- Investigate original location of the staircase to basement and consider this as a preferred location.

3.2.2. Further information was received showing the retention of the rear return at first and second floors.

3.2.3. Applicants state that the amended proposal gives rise to sub-standard accommodation/consider that the demolition of the isolated top level of the return is justified.

3.2.4. Other Technical Reports

Conservation – Recommend conditions.

Roads and Traffic – Recommend conditions.

3.3. Prescribed Bodies

3.3.1. None.

3.4. **Third Party Observations**

3.4.1. None.

4.0 **Planning History**

2583/07 – Grant – Parking space and vehicular access/alterations of railings to front.

5.0 **Policy and Context**

5.1. **Development Plan**

Dublin City Development Plan 2016-2022.

5.1.1. The site is located in an area that is zoned Objective Z2 (To protect and improve the amenities of residential conservation areas) under the provisions of the Dublin City Development Plan 2016-2022. Under this land use zoning objective, residential development is a permissible use. The building is a Protected Structure.

5.1.2. Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- Policy CHC2 - To ensure that the special interest of protected structures is protected.
- Policy CHC5 – To protect Protected Structures and preserve the character and the setting of Architectural Conservation Areas.
- Section 16.2.1 Design Principles.
- Paragraph 16.10.12 of the Plan relates to extensions to residential properties.
- Appendix 17 of the Plan provides guidance on residential extensions.

5.1.3. The following Section 28 Ministerial Guidelines is of relevance to the proposed development.

- 'Architectural Heritage Protection Guidelines for Planning Authorities' (2011).

5.2. **Natural Heritage Designations**

5.2.1. None.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development, a residential extension, and having regard to the separation distance to the nearest sensitive location (the appeal site is 350m south of the Grand Canal pNHA), there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The First Party Grounds of Appeal are as follows:

- The appeal relates to Condition No. 2 only.
- Refers to the Conservation Report submitted with the application.
- Compelled to appeal decision in the hope ABP will see the impracticalities of the decision and grant the permission as applied for.
- Meeting requests with the Conservation Officer were not granted.
- No internal site visits were carried out as part of the assessment.
- Applicants engaged experienced conservation architects to prepare application.
- Opinion prepared by OCOR architects highlights that the key built heritage value lies with the street elevation and internal layout features/rear has been compromised at all levels.
- Refers to assessment of John F. Green, Grade One Conservation Architect.
- Refer to Section 7.2.2 of the Architectural Heritage Protection Guidelines for Planning Authorities.
- Demolition of the top element of the original return is justified given it is minor when considered in the context of the heritage value of the main dwelling/interior of the return at this level has already been compromised.

- The second floor rear extension will extend 5.13m from the rear elevation, only marginally deeper than the existing ground and first floors.
- Considerably shallower than other rear extensions along Upper Leeson Street/will appear as one of a variety of rear extensions.
- Question the legality of Condition 2- conditions should be drafted so their purpose and meaning are clear.
- This element of the condition is highly ambiguous- provision of a bathroom elsewhere in the return would render extension different to that applied for at ground or first floor level/no requirement to submit drawings.
- If the bathroom were located elsewhere within the Protected Structure, this would be a material change and would itself require planning permission.
- Relocating a bathroom to a bedroom would reduce the number of available bedrooms from 4 to 3/other works to the internal fabric would be required to facilitate this.
- Shower room works are relatively minor and easily reversible.
- Suggest a revised wording for Condition 2.
- Submission includes letter from applicants outlining need for extensions/letter from OCOA Architects outlining difficulties with implementation of Condition 2/letter from John Green – Grade 1 Conservation Architect.

6.2. **Planning Authority Response**

6.2.1. None.

6.3. **Observations**

6.3.1. None.

7.0 **Assessment**

7.1. The first party appeal relates to Condition 2 parts (i) and (ii) attached to the Notification of Decision to Grant Permission issued by the Planning Authority which

relates to the omission of omission of the third storey element of the extension/retention of the original rear return at second floor level/creation of an opening at first floor level to connect to the extension/relocation of the bathroom/removal of the shower room. The applicants raise no objection to parts (iii), (iv) and (v) of the condition.

- 7.2. I am satisfied that, from a design perspective, the proposed form and design of the three storey extension to the rear is acceptable, and that no amenity impacts will result from the extensions.
- 7.3. I consider it appropriate, therefore, that the scope of the assessment is restricted to the consideration of Condition 2 as attached to the Notification of Decision issued by the Planning Authority, in accordance with S.139 of the Planning and Development Act (as amended). Condition 2 relates, in the main, to the preservation of the first and second floor return, and the omission of the shower room element and the associated window to the rear.
- 7.4. In relation to the retention of the first and second floor rear return, I note the Conservation Officer's desire to retain this element as it is original fabric, and it also forms a pair with the neighbouring dwelling. However, I concur with the view of the appellants, and their supporting submissions, that the original rear return is already compromised by later additions and that, furthermore, the built heritage value of the Protected Structure lies with its contribution to the streetscape and the interior elements of the building. Furthermore, it is my view that the relationship of the return with the neighbouring dwelling is also compromised by the modern two-storey extension to the rear.
- 7.5. The Architectural Heritage Protection Guidelines note that it will often be necessary to permit appropriate new extensions in order to make them fit for modern living, and this current proposal is a case in point. While the loss of any original fabric must be justified and avoided where necessary, in this instance the minor loss of fabric at first and second floor level facilitates modern family requirements, allowing the building to be utilised as a family dwelling with facilities expected for modern living. The existing bathroom facilities within the dwelling are clearly sub-standard, and accommodating a family bathroom within the new build fabric, at second floor level, minimises the need for additional interventions internally.

- 7.6. I concur with the applicant in relation to the ambiguous wording of Condition 2, and the relocation of the proposed second floor bathroom internally would itself require an additional consent, and would also necessitate additional interventions to the existing fabric, and would result in the loss of a bedroom. Relocation within the new build elements at ground or first floor would not be in accordance with the consented plans, and would also result in the loss of a bedroom.
- 7.7. I do not consider that the omission of the second floor element and the retention of the original return at first and second floor levels this is justified in conservation terms, given the relatively minor loss of original fabric and the need to modernise, and to facilitate the continued use of, the Protected Structure, as per 'Architectural Heritage Protection Guidelines for Planning Authorities' (2011).
- 7.8. In relation to the proposed third floor shower room, associated window and staircase I concur with the applicant in that these works are minor and easily reversible. The additional window to the rear elevation has little impact on the appearance of the rear elevation, which as noted above is already compromised by the modern two-storey rear extension. As such, I do not consider the omission of these features from the proposal is justified.
- 7.9. Condition 1 refers to plans received as Further Information on 9th November 2018. However it is clear from the applicant's Further Information submission that the plans indicating a two-storey extension were submitted solely to illustrate the limitations that would result from the omission of the second floor element, and the retention of the first and second floor returns. In the interest of clarity, Condition 2 should be reworded to provide clarity as to what has, in fact, been permitted.

8.0 Recommendation

I recommend that Condition No. 2 is amended as follows:

Condition 2:

The proposal shall be amended as follows, and shall comply with the following requirements;

- (i) The proposed rear extension should be three storeys in height as per the originally submitted plans and particulars (submitted to the planning authority on 22nd March 2018).
- (ii) Breathable insulation materials such as cellulose, hemp and sheepswool only shall be permitted in the attic space
- (iii) A conservation expert with proven and appropriate expertise shall be employed to design, manage, monitor and implement the works to the Protected Structure and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.
- (iv) All works to the Protected Structure shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of the Environment, Heritage and Local Government. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement
- (v) All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works.

Prior to the commencement of development revised plans showing the amendments detailed in part (i) above shall be submitted to, and approved in writing by, the planning authority.

Reason: To ensure that the integrity of the protected structure is maintained and that the proposed works are carried out in accordance with best conservation practice with no unauthorised or unnecessary damage or loss of historic building fabric.

Rónán O'Connor

Planning Inspector

17th April 2019