



An  
Bord  
Pleanála

## Inspector's Report ABP 303515-19

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<b>Development</b>	Demolish existing building and construct a two-storey over basement dwelling abutting No. 1 St. Mary's Road (A Protected Structure)
<b>Location</b>	1A, St. Mary's Road, Ballsbridge, Dublin 4.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	4230/18
<b>Applicant(s)</b>	Clare Campbell
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Clare Campbell
<b>Observer(s)</b>	Pembroke Road Association
<b>Date of Site Inspection</b>	10 <sup>th</sup> April 2018
<b>Inspector</b>	Irené McCormack

## 1.0 Site Location and Description

- 1.1.1. The appeal site is located at No. 1A St. Mary's Road, Ballsbridge, Dublin 4. The site is a triangular shape. The northern boundary aligns with St. Marys Road, an attractive tree lined road of predominantly period residential properties. The southern boundary aligns with Baggot Lane, a mews type lane of restricted width.
- 1.1.2. No 1 St. Mary's Road is listed as a Protected Structure (ref. 7720). No. 1 and the application site No. 1A were previously connected and the site formed part of the original curtilage of No. 1 St. Mary's Road.
- 1.1.3. The site contains a 2-storey red brick slate roof semi-detached dwelling attached to the recessed side annex of no. 1 St. Mary's Road. The building has a deeper set back of just under 6-meters from its roadside boundary with St. Mary's Road. This setback area is hard surfaced and is generally enclosed by a circa 2-meter in high wall which is attractively faced and capped in brick. There is a vehicle access located on the corner with Baggot Lane and a solid timber pedestrian access gate which is located in close proximity to the side gable of No. 1.
- 1.1.4. No. 1 St. Mary's Road currently operates as a hair and beauty salon.

## 2.0 Proposed Development

- 2.1. The development will consist of; the demolition of existing 2 storey structure & boundary walls at 1A Saint Mary's Road (abutting No. 1 Saint Mary's Road - a Protected Structure); the construction of a new 2 storey two-bed dwelling (178.4 sqm) including basement (48 sqm) & lift; the construction of new boundary walls to Saint Mary's Road & Baggot Lane; new vehicular & pedestrian access gates to Baggot Lane and connections to public services & associated works. The front entrance door will be located on Saint Mary's Road.
  - 2.1.1. The accompanying Conservation Report indicates that the building on site is not likely to be part of the original construction of No. 1 St. Marys Road. However, the date of construction is unclear from the documentation submitted, but its exterior does have a period architectural expression.
  - 2.1.2. The site is located within the zone of archaeological constraints of Recorded Monument DU018-055 (*Castle site*).

## **3.0 Planning Authority Decision**

### **3.1. Decision**

REFUSED for the following two reasons:

1. The proposal contravenes section 16.10.17 of the Dublin City Council Development Plan 2016-2022 which actively seeks the retention of older buildings and while the property is not protected, forms part of the original curtilage of the original estate and Protected Structure at No.1 St. Mary's Road. The proposal is therefore contrary to the Z2 zoning objective of the site which is to protect and/or improve the amenities of residential conservation areas and as such the proposal is considered to seriously injure the amenity of property in the vicinity and as such is considered contrary to the proper planning and sustainable development of the area.
2. This proposal is in contravention of Section 16.10.15 of the Dublin City Council Development Plan 2016-2022, which states it is the policy of Dublin City Council to discourage any significant underground or basement development or excavations below ground level of, or adjacent to, residential properties in Conservation Areas or properties which are listed on the Record of Protected Structures. The proposal is therefore considered to seriously injure the amenity of property in the vicinity and is considered contrary to the Z2 zoning objective of the site and the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner's Report is the basis for the Planning Authority decision.

The Planning Officer's reports notes the zoning provisions of the area, relevant policy objectives, recent planning history and the observations on file. In relation to design and impact on Protected Structure the report notes the following:

- The proposal differs from the previous planning application in so far as the applicant is proposing to demolish much of the property.
- The report sets out that the Conservation Section recommends refusal on the basis that development contravenes policy 16.10.17 requiring the re-use of older buildings of significance.
- The proposed basement considered unacceptable and contrary to section 16.10.15.
- The report makes reference to the applicant's justification for the revised design on the basis of the requirements for the lift to accommodate the medical needs of the applicant.

### 3.2.2. **Other Technical Reports**

**Conservation Officer** –recommends refusal stating that the development is contrary to section 16.10.17 and 16.10.15 of the Development Plan. The report sets out two reason for refusal which form the basis of the recommendation of the planning officer.

**City Archaeologist** - No objection subject to monitoring condition.

**Engineering Department – Drainage Division** - no objection subject to conditions.

### 3.3. **Prescribed Bodies**

None

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

One no. submission was made in relation to the development from the 'Pembroke Road Association' to the Planning Authority. Concerns were raised about the basement proposal and the associated impact. The submission requested the development be refused.

## 4.0 **Planning History**

### 4.1. Site

DCC Ref. 3998/15 – Permission was granted in 2015 to remodel and extend the existing end of terrace two-storey residential mews building.

## 5.0 Policy and Context

### 5.1. Development Plan

The site is located in an area zoned Z2 -Residential Neighbourhoods (Conservation Areas) with the following objective; *'To protect and/or improve the amenities of residential conservation areas.'*

Section 14.8.2 of the Development Plan includes the following:

Residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale.

The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.

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

- Section 4.5.9 Urban Form and Architecture
- Section 5.5.7 Houses
- Section 5.5.8 Demolition and Re-use of Housing
- QH22: To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise
- Policy QH23: To discourage the demolition of habitable housing unless streetscape, environmental and amenity considerations are satisfied, and a net increase in the number of dwelling units is provided in order to promote sustainable development by making efficient use of scarce urban land.

- Section 11.1.5.13: Preservation of Zones of Archaeological Interest and Industrial Heritage
- 11.1.5.3 Protected Structures – Policy Application - In order to protect the city’s Protected Structures, the City Council will manage and control external and internal works that materially affect the character of the structure.
- Section 16.2.1 Design Principles -The re-use of existing buildings should always be considered as a first option in preference to demolition and newbuild.
- Section 16.10.15: Basements - It is the policy of Dublin City Council to discourage any significant underground or basement development or excavations below ground level of, or adjacent to, residential properties in Conservation Areas or properties which are listed on the Record of Protected Structures. Development of all basements or any above ground buildings for residential use below the estimated flood levels for flood zone areas ‘Zone A’ or ‘Zone B’ will not be permitted (Policy SI13).

Section 16.10.17: Retention and Re-Use of Older Buildings of Significance which are not Protected - The re-use of older buildings of significance is a central element in the conservation of the built heritage of the city and important to the achievement of sustainability. In assessing applications to demolish older buildings which are not protected, the planning authority will actively seek the retention and re-use of buildings/structures of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city.

- Policy SC25 – To promote high standards of design

#### 5.1.1. National Policy and Guidelines

- Architectural Heritage Protection Guidelines for Planning Authorities (2004)  
Section 3.10.2 states “*When it is proposed to demolish an undistinguished building in an ACA, the proposed replacement should not be of lesser quality or interest than the existing one and should not adversely affect the character of the area*”.

Section 3.10.3 (e) states “*Are there alternatives to demolition, even where the structure is in poor condition?*”.

- National Planning Framework – Principle of sustainability is a fundamental objective of the NPF.

## 5.2. Natural Heritage Designations

There are two designed sites within 2km of the site.

- South Dublin Bay SAC (site code 00210) is located 1.9 km east of the site.
- South Dublin Bay and River Tolka Estuary SPA (site code 004024) is located 2km east of the site.

## 5.3. Environmental Impact Assessment - Preliminary Examination

On the issue of Environmental Impact Assessment screening I note that the relevant classes for consideration are class 10(b)(i) “*Construction of more than 500 dwelling units*” and 10(b)(iv) “*Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere*”. Having regard to the size of the development site (.175ha) and scale of the development it is sub threshold and the proposal does not require mandatory Environmental Impact Assessment. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The applicant's grounds of appeal can be summarised as follows:

- The proposed design reflects a similar design response to the previous grant of planning permission. The revised design seeks to future proof the dwelling to accommodate the medical needs of the applicant who has Parkinson's disease. The revised design provides a better level of sustainable design and the design approach responds to its immediate context.
- No. 1A is of little architectural value and is a simple utilitarian ancillary building that has been altered over the years. The reasons for refusal do not raise any issues with the design of the proposed development.
- The proposed basement is below 50% of the garden/amenity space as per 16.10.15 of the Dublin City Council Development Plan. The consulting engineers report submitted with the planning application sets out the methodology for constructing the basement in proximity to the protected structure.

#### **Planning Authority Response**

The Planning Authority did not respond to the grounds of appeal.

### 6.2. Observations

1 no. observation received from the 'Pembroke Road Association', 57 Pembroke Lane, Ballsbridge, Dublin 4.

The principal comments can be summarised as follows:

- Demolition of the building is not in accordance with the Planning Act.
- The entire building including 1A should be protected.
- Dublin has a high-water table and the construction material required to construct the basement is not a sustainable approach to reducing our carbon footprint.



- Impact of construction works.
- Any development should enhance the area.

## 7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Demolition
- Impact on the Character of the Conservation Area and Neighbouring Protected Structure
- Provision of New Basement Level
- Appropriate Assessment

7.1.1. The site is zoned Z2 -Residential Neighbourhoods (Conservation Areas) with the following objective; '*To protect and/or improve the amenities of residential conservation areas.*'. Residential is a permissible use within this zoning category. As such the proposal is acceptable in principle, subject to the detailed considerations below.

### 7.2. Principle of Demolition

7.2.1. The proposed development provides for the demolition of the existing two-storey structure and the construction of a two-storey over basement contemporary design flat roofed dwelling finished in selected brick. It seeks to replace the existing building with a modern design that reflects a similar scale and mass with the addition of a basement level and a contemporary single storey element to the front. The established use of the building is residential use. In this regard I note planning permission was granted under DCC Ref. 3998/15 to remodel and extend the existing end of terrace two-storey residential mews building.

7.2.2. In terms of the relationship with protected structure No 1 St. Mary's Road, I note No. 1A historically formed part of the curtilage of No1 but is now an independent site. No. 1A is not a protected structure and not listed on the National Inventory of Architectural Heritage.

- 7.2.3. Section 16.2.1 of the Development Plan states that the re-use of existing buildings should always be considered as a first option in preference to demolition and newbuild. The existing building appears to be in habitable use and in good structural condition. It is also of note that neither the Conservation report nor the Engineering report submitted with the planning application make any reference to deficiencies in the structural integrity of the building.
- 7.2.4. Policy objective QH23 of the Development Plan discourages the demolition of habitable dwellings. There is no increase in residential density as a result of the development. The applicant's justification for the demolition relates to universal access and accessibility, and in the interest of a more sustainable build and heat efficiency. The fundamental principles of sustainability are to reduce-reuse-recycle. The demolition of the building and construction of a similar replacement structure has not been justified and the demolition works including the boundary walls on this tight site would appear to be required to accommodate the proposed basement level only in order to increase the overall floor area on the dwelling. In my opinion there is no reason the existing structure cannot be upgraded and extended to accommodate the applicant's needs. The demolition of a habitable, structurally sound structure is contrary to the principle of sustainable development.
- 7.2.5. In conclusion, I consider that the demolition of the existing dwelling is contrary to policy QH23 of the Dublin City Development Plan 2016-2022 and the proposed development should be refused for this reason.

### **7.3. Impact on the Character of the Conservation Area and Neighbouring Protected Structure**

- 7.3.1. The Planning Authority's decision asserts that the proposed development does not comply with the zoning objective of the area and is not in accordance with Section 16.10.17 of the Development Plan - *Retention and Re-Use of Older Buildings of Significance which are not Protected*.
- 7.3.2. The site is located within a residential conservation area and No. 1 St., Mary's Road is listed as a Protected Structure RPS ref. 7720 and described as "House" on the Record of Protected Structures. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.

- 7.3.3. Section 3.10.2 of the Architectural Heritage Protection Guidelines states that where it is proposed to demolish a structure that contributes to the character of a conservation area or to demolish behind a retained façade, the onus is on the applicant to make the case for demolition. I note the Conservation report and Archaeological report submitted have failed to date the building on site. However, historical map evidence submitted would indicate the presence of a structure on site in 1889. The Conservation report sets out that the building has been altered over the years, façade treatment and openings modified, windows replaced and Upvc rainwater goods attached. Similarly, the building has been modified internally. The report sets out that the building retains no significant features of architectural merit. In terms of the external appearance I would not agree.
- 7.3.4. The applicant claims that the building is a simple utilitarian structure when compared to the adjoining protected structures. However, the building occupies a prominent corner site and whilst I note some alterations have been carried out over the years the building form, red brick façade and slate roof does reflect period architectural expression and represents the architectural and historical evolution of the site. Residential conservation areas will not necessarily be of uniform character and in the context of the Victorian streetscape I consider the existing building does add an amenity value and is worthy of retention.
- 7.3.5. It is the policy of Dublin City Council to actively seek the retention and re-use of older buildings where those buildings are considered to be of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes. I am satisfied that the existing building is of architectural merit and the demolition of the building would be contrary to section 16.10.17 of the Development Plan.

#### **7.4. Provision of New Basement**

- 7.4.1. The proposed development includes a basement level ca. 51sqm in area. The proposed basement will accommodate a home cinema/physio room, bathroom and utility area.
- 7.4.2. I note that site is not located in a Flood Zone A or Flood Zone B and policy SI13 of the Development Plan does not apply. An engineering assessment including construction methodology for the basement has been submitted. The report sets out

that no boreholes were dug on site due to the restricted nature of the site and groundwater depth is assumed to be below 6m based on adjoining development sites. I note the Engineering Department – Drainage Division raised no objection to the proposed development.

- 7.4.3. In addition to the above I note the basement immediately abuts the public footpath on St. Mary's Road and is sited 800mm from Baggot Lane and a minimum of 2.344m from Protected Structure No. 1 St. Mary's Road. Section 16.10.15 of the Development Plan discourages the construction of basements adjacent to Protected Structures. Having regard to the restricted size of the site and the proximity of the basement to the Protected Structure, I consider the proposed basement has not been justified and I am not satisfied that the basement would not be detrimental to the structural integrity of the adjoining protected structure, public footpath and Baggot Lane. Accordingly, I consider the proposed basement is in contravention of Section 16.10.15 of the Dublin City Council Development Plan.

#### **7.5. Appropriate Assessment**

Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

#### **8.0 Recommendation**

I recommend that planning permission for the proposed development should be refused for the reasons and considerations, as set out below.

#### **9.0 Reasons and Considerations**

1. The proposed development by reason of the demolition of a habitable, structurally sound building in a residential conservation area is contrary to Policy Objective QH23 which seeks to discourage the demolition of habitable housing and Section 16.10.17 of the Dublin City Council Development Plan 2016-2022 which actively seeks the retention of older buildings. The proposal

is, therefore, contrary to the Z2 zoning objective for the area which seeks to protect and/or improve the amenities of residential conservation areas and, as such, the proposal is considered contrary to the proper planning and sustainable development of the area.

2. Having regard to size of the proposed basement on this restricted site area adjacent to a Protected Structure, it is considered that the development is in contravention of Section 16.10.15 of the Dublin City Council Development Plan 2016-2022, which states it is the policy of Dublin City Council to discourage any significant underground or basement development or excavations below ground level of, or adjacent to, residential properties in Conservation Areas or properties which are listed on the Record of Protected Structures. The proposed development, therefore, is considered to be contrary to the proper planning and sustainable development of the area

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Irené McCormack  
Planning Inspector

2<sup>nd</sup> May 2019