



An  
Bord  
Pleanála

## Inspector's Report ABP-304522-19

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<b>Development</b>	Construction of one bedroom dwelling with converted roofspace to the side of existing dwelling.
<b>Location</b>	139 Rialto Cottages, Rialto, Dublin 8.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2413/19
<b>Applicant(s)</b>	J Kirwan & G Kirwan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Brian O'Shea
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	7 <sup>th</sup> August 2019
<b>Inspector</b>	Paul O'Brien

## 1.0 Site Location and Description

- 1.1. The subject site comprises an area of land that forms part of the private amenity space to the western side of 139 Rialto Cottages, Dublin 8. Number 139 is a single-storey end of terrace house located on the southern side of this short residential cul-de-sac, north of the South Circular Road in Rialto. Rialto Cottages consists of similar single-storey terraced houses with the front elevations finished in render, located on short cul-de-sacs, bookended to the east by two-storey units addressing Rialto Street. These single-storey houses are described as Guinness Artisan Cottages built circa 1900. To the south of the subject site is a terrace of two-storey houses addressing the South Circular Road and to the west/ south west is a public house – The Anchor Bar.
- 1.2. The existing house has been extended to the rear and a high wall with double doors, flush with the front façade, closes off the private amenity space from public view. An arc of land bounded with a round bar railing is located to the north west of the house and forms part of the site.
- 1.3. The site is within 330 m walking distance from the Rialto Luas (Red Line) stop and within 165 m walking distance of a number of bus routes on the South Circular Road.

## 2.0 Proposed Development

- 2.1. The proposed development consists of a two-storey house attached to the western side of number 139 Rialto Cottages. The footprint of the house would project forward beyond the established front building line utilising much of the arc of private amenity space to the front of the house. The floor area of the proposed house is given as 61.3 sq m.
- 2.2. The proposed design maximises the available site area and the design can be described as contemporary. A pitched roof element to the front mimics the existing form of the terraced houses on this cul de sac and a projecting single storey element beyond the front elevation provides for an entrance hall and bathroom. Other than a floor to ceiling height window in the northern most elevation, no other windows are proposed. Two rooflights in the flat roof of the single-storey front element allow for ventilation and natural light. The remainder of the ground floor provides for a kitchen/

living/ dining space and access to the first-floor element. The first floor provides for a bedroom and storage provision in the form of a projecting rear dormer. A first-floor area of 10.1 sq m provides for private amenity space for the occupants of the proposed house. The existing house will be left with a private amenity space of 8.35 sq m.

By dropping the floor level below ground level, the proposed development will provide for a two-storey unit without projecting above the roof ridgeline of the existing terrace of houses. The pitched roof will be finished with slate matching that of the existing house and the elevational finishes are indicated to be a mix of polished concrete and painted render.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority decided to grant permission subject to conditions. The conditions are generally standard. Condition number 4 is specific to the development requiring that the wall, roof and window finishes be in accordance with the submitted plans; that the first-floor terrace be revised such that a screen be relocated by 800 mm west of its proposed location and 500 mm north of the southern boundary. The proposed screening to be fully obscured with no transparency provided.

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

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

The Planning report reflects the decision to grant permission subject to conditions.

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

Drainage Division: No objection subject to conditions. It is noted that a Flood Risk Assessment in accordance with OPW Guidelines and Dublin City Development Plan 2016 – 2022 was recommended and has been conditioned under Condition 3 d).

### 3.3. Objections

A number of letters of objection were received in relation to the proposed development. Issues raised are similar to those raised in the grounds of appeal and included the character and nature of the development, impact on residential amenity with particular reference to loss of privacy and concern regarding drainage in the area.

## 4.0 Planning History

**P.A. Refs. 2335/08 and 2335/08x1** refer to a 2008 grant of permission and a further grant in 2013 for a single storey extension to the side of 139 Rialto Cottages, providing for an additional 37 sq m of habitable floor space. Permission expired on the 28<sup>th</sup> of August 2018.

**P.A. Ref. 3548/14** refers to a 2014 grant permission for an attic conversion, provision of a dormer extension to the rear, single-storey extension to the rear and one number rooflight to the front of 122 Rialto Cottages; 122 is located on the opposite side of the street to the subject site.

Condition 2 of The Boards decision was as follows:

*2. The proposed development shall be amended as follows:*

- (a) The proposed rooflight to the front roof plane of the cottage shall be omitted, and the existing ridge line and ridge tiles to this line shall be retained.*
- (b) The dormer window extension shall be finished in vertically hung slates that match, in colour and texture, the slates on the existing rear roof plane.*
- (c) The soffit and fascia to the dormer window extension shall be finished in a dark grey colour, to blend with the slate.*

*Revised drawings showing compliance with these requirements, together with samples of the materials referred to in (b) and (c) above, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.*

*Reason: In the interest of visual amenity.*

## 5.0 Policy and Context

### 5.1. Development Plan

Under the Dublin City Development Plan 2016 – 2022, Rialto Cottages are zoned Z2 ‘To protect and/or improve the amenities of residential conservation areas’.

Residential development is a permissible use under the Z2 zoning objective.

Chapter 05 – *Quality Housing*, is noted with particular reference to Policy QH1: having regard to National Guidance on sustainable residential development, Policy QH6: to encourage the creation of attractive mixed use neighbours consisting of a variety of housing types and Policy QH7: promote residential development having regard to the need for high standards of urban design and architecture that ensures integration with the character of the area.

Chapter 16 – *Development Standards: Design, Layout, Mix of Uses and Sustainable Design* provides extensive guidance on residential development. Section 16.2.2.2 refers to Infill Development and encourages such development where it respects/enhances the existing character of the area. The following is noted:

- *Within terraces or groups of buildings of unified design and significant quality, infill development will replicate and positively interpret the predominant design and architectural features of the group as a whole*
- *In areas of low quality, varied townscape, infill development will have sufficient independence of form and design to create new compositions and points of interest and have regard to the form and materials of adjoining buildings, where these make a positive contribution to the area.*

Standards for Residential Accommodation are addressed in Section 16.10 and includes minimum room sizes, private amenity space and standards regarding light, ventilation and noise.

### 5.2. Natural Heritage Designations

None.

### 5.3. EIA Screening

Having regard to nature of the proposed development comprising an infill house in an established urban area and where infrastructural services are available, 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

The neighbour who lives opposite the subject site at 118 Rialto Cottages, has lodged an appeal against the grant of permission. The issues raised include:

- The design of the proposed house is out of character with the existing units in this historic area.
- The development is not in accordance with the policies and objectives of the current Dublin City Development Plan 2016 – 2022 with particular reference to ensuring that the character of the area is respected.
- The scale of development is out of character with the existing form of development in the area.
- The proposal encroaches onto an area of open space.
- The proposed development would have a negative impact on the residential amenity of 118 Rialto Cottages with particular reference to loss of privacy and overbearing nature of development.

### 6.2. Applicant Response

Includes:

- High quality infill developments have been permitted throughout Dublin City over the last twenty years. Examples of similar infill developments are provided in the submission.

- The proposed house is designed in a contemporary manner but respects the existing character of the area in terms of building lines, eaves height, ridge height and separation distances.
- The subject site in its current form adjacent to a high wall associated with the Anchor Bar provides very little amenity value to the residents of 139 Rialto Cottages.
- The site is wholly within the control of the applicant.
- Although the design is somewhat unusual, there is no issue of precedent having regard to similar locations as there is not the same availability of land as on this site.
- The proposed development will provide a more attractive view than is currently the case.
- Access to the revised garden will be by way of a single, inward opening gate and will have no impact on existing parking on the street.
- The proposed house has been designed in accordance with Section 16.10.2 *Residential Quality Standards – Houses* of the Dublin City Development Plan 2016 – 2022. It is noted that the applicant has referred to Section 10.6. This is clearly a typing error.
- Open space provision for the existing house will be 8.35 sq m which is below the minimum of 10 sq m set out in the Dublin City Development Plan. The applicant justifies this on the basis that the house was extended in the past.
- No car parking is proposed as is the case with the original houses in Rialto Cottages. The site is within 200 m of the Luas stop at Rialto.
- The proposed development does not result in overshadowing, loss of sunlight or daylight.

### 6.3. Planning Authority Response

- None received.

## 6.4. **Observations**

- None received.

## 7.0 **Assessment**

7.1. The main issues that arise for assessment in relation to this appeal can be addressed under the following headings:

- Principle of Development
- Design, Impact on the Character of the Area and Residential Amenity
- Other Issues
- Appropriate Assessment Screening

### 7.2. **Principle of Development**

7.2.1. The proposed development consists of a one-bedroom house attached to the western side of 139 Rialto Cottages. The site is zoned Z2 “To protect and/or improve the amenities of residential conservation areas” and residential development of the nature proposed is acceptable in principle.

### 7.3. **Design, Impact on the Character of the Area and Impact on Residential Amenity**

7.3.1. The Rialto Cottages area is characterised by single-storey terraced houses with on-street, unallocated car parking available to the front of the houses. It is evident from aerial photography (Google Maps/ Google Earth) that the vast majority of similar houses in the immediate area have been extended primarily to the rear leaving little to no private amenity space.

7.3.2. The design of the proposed house can be described as contemporary. It does retain the form and character of the existing houses through its single-storey appearance when viewed from the public street. The entrance hall, utility/ storage room and a



bathroom are located within a curved element that projects beyond the existing front building line and this element has the most significant visual impact. The design has been carefully considered and I would consider the impact on the streetscape to be satisfactory. The use of polished concrete on the front elevation will ensure an appropriate integration with the adjoining houses. The existing arrangement of railings enclosing an area that provided access to a side yard to the house with a concrete wall forming the end of the street, cannot be described as visually attractive. It is considered that the proposed development would improve the visual appearance of this street and would not negatively impact on the character of the area.

- 7.3.3. The design of the house has also been carefully considered regarding impact on neighbouring properties. No undue overlooking leading, to a loss of privacy, or overshadowing, leading to a loss of daylight/ sunlight, would arise. A 'Solar Study' for December, March and June does not give rise to any concern and the results are as expected. The provision of a front garden would ensure an adequate separation between the new house and the existing houses to the north. The retention of this garden, though reduced in size, and associated railings will ensure that the character of the end of the cul-de-sac is maintained.
- 7.3.4. The internal layout of the house and room sizes comply with the requirements of Section 16.10.2 *Residential Quality Standards – Houses* of the Dublin City Development Plan 2016 – 2022. Storage is provided on both floors and is sufficient for the size of house.
- 7.3.5. Adequate private amenity space is provided for the residents of the proposed house; the open space is primarily at first floor level to the western/ rear of this unit with access directly from the bedroom. Screening is indicated on Drawing Number P-105 on the eastern and western sides of the private amenity area. The Planning Authority's Condition 4 requires; the screen to be located 800 mm westwards from the eastern side and 500 mm northwards from the southern side. This condition is reasonable having regard to the protection of residential amenity.

- 7.3.6. Private amenity space for the existing house will be much reduced and the residents will have access to a stated 8.65 sq m, which is 1.35 sq m less than the standard set out in the Dublin City Development Plan 2016 – 2022. Having regard to the existing pattern and form of development in the area where the vast majority of houses have no private amenity space, I consider the reduction in open space in this case to be acceptable.
- 7.3.7. The applicant does not propose to provide any additional car parking, and this is acceptable having regard to the existing car parking provision in the area and the proximity of the site to public transport.
- 7.3.8. Reference is made in the appeal to the setting of a ‘dangerous precedent for these historic collection of cottages’. I consider that the proposed development would make a positive contribution to the protection of the existing character of these cottages through an appropriate use of this site.

#### **7.4. Other Issues**

- 7.4.1. Dublin City Council Drainage Division recommend ‘that an appropriate Flood Risk Assessment, in accordance with the OPW Guidelines and the Dublin City Development Plan 2016 – 2022 Strategic Flood Risk Assessment’ be carried out; this was conditioned in the grant of permission. I note this condition, however from the Dublin City Development Plan 2016 – 2022 – Strategic Flood Risk Assessment, there does not appear to be any specific concerns regarding flooding in this area. Rialto Cottages is not listed in Appendix 3 – Justification Test Tables and is not indicated as an area at risk in Appendix 5 – Composite Flood Zone Map. The OPW floodinfo.ie website does not indicate any historical or potential flood issues in this area. I therefore consider it unnecessary and unreasonable to condition the applicant to provide for a Flood Risk Assessment.

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

- 7.5.1. 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 considered that the development would not give rise to a significant effect individually or in combination with other plans or projects on an European site.

## 8.0 Recommendation

8.1. I recommend that permission be granted subject to the following conditions and reasons

## 9.0 Conditions

1.	<p>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 in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>(a) The 1.8 m high screen shall be located 0.8 m from the eastern side of the terrace and a 1.8m high screen shall be provided 0.5 m from the southern side of the terrace, with no access to the area outside of the screen except for purposes of maintenance.</p> <p>(b) The proposed screen shall be fully obscured.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
3.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health and to ensure a proper standard of development.</p>
4.	<p>The house shall be used as a single dwelling unit.</p> <p><b>Reason:</b> In the interest of clarity.</p>

5.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p><b>Reason:</b> To protect the amenities of the area.</p>
6.	<p>Proposals for a name/house number shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the house name/number shall be provided in accordance with that agreed.</p> <p><b>Reason:</b> In the interest of urban legibility.</p>
7.	<p>The bathroom window shall be fitted and permanently maintained with obscure glass. The use of film is not acceptable.</p> <p><b>Reason:</b> In the interests of residential amenity.</p>
8.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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Paul O'Brien  
Planning Inspector

12<sup>th</sup> August 2019