



An
Bord
Pleanála

Inspector's Report

ABP-305334-19

Development	PERMISSION & RETENTION: retention of alterations/additions to the fenestration, changes in floor levels, reduction in extent of units, changes to eaves levels and ridge level
Location	77C & 77D, Orwell Road, Rathgar, D6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3249/19
Applicant(s)	Michael and Deirdre Conroy
Type of Application	Permission, Permission to Retain
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Martin Henigan
Observer(s)	None
Date of Site Inspection	18 th January 2020
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The subject residential site is located on the northern side of Orwell Road and close to the western bank of the River Dodder. On site, there is an established original single dwelling house that has been extended, remodelled and subdivided into two dwelling units. The double-pitch gable end, which is set behind an old stone wall, fronts onto Orwell Road from where an original pedestrian gate provides access to the property. The front elevation fronts onto Mill Close which is a private lane less than 5m in width and serves as a vehicular access to three other detached dwellings one of which is occupied by the appellant.
- 1.2. The site is in the final stages of building works associated with permission for the sub-division to two dwellings and associated works.
- 1.3. The external shell of the structure is completed and fitted with windows and doors. The interface between the facade and lane such as intervening drainage arrangements and entrance stepping are incomplete among other landscaping works and finishes.
- 1.4. Orwell Road is a busy distributor road linking the outer suburbs to Rathgar Village – it has a curved horizontal alignment and rises quite steeply in each direction from the River Dodder banks. There is a bus stop in the vicinity of the site frontage and also on the opposite side of the road where there is a kiosk. The subject building and development to the east is generously setback from the carriageway and this provides for a footpath and off-street car parking which appears to be available to the public. At time of inspection two cars were parked in this space in addition to on street parking on both sides of the road in the vicinity of the site. There is access to the river bank walkways on each side of Orwell Road and during my site inspection some walkers availed of this parking.
- 1.5. Mill Close falls away from the public road down to the end of this short cul-de-sac and has a kerbed border on the eastern side for a length of about 14m from the entrance. The entrance is marked by gate piers and is 4m wide.
- 1.6. The site is stepped down from the detached dwelling to the west on Orwell Road and steps from the pedestrian gate at Orwell Road providing access down the rear

garden areas of each dwelling. The sites are otherwise substantially level. The ground level of Unit 2 steps down for Unit 1

2.0 Proposed Development

2.1. Permission is sought to retain alterations to previously approved development for the subdivision of a single dwelling unit which involved partial demolition and extension works. The main elements include:

- Alterations to/ additional fenestration – a new southern gable window and multiple rooflights
- Changes to floor levels
- Reduction in footprint of development – stepping back from the boundary wall along Orwell Road.
- Changes to eaves levels and ridge level
- Changes to drainage layout
- Permission for foul sewer connection to manhole on Orwell Road
- Associated site works.

3.0 Planning Authority Decision

3.1. Decision

Grant subject to 6 conditions.

Conditions 2, 3 and 4 relate to construction stage noise, hours of operation and construction managements.

Condition 5 relates to Drainage and requires compliance with the Greater Dublin Regional Code of Practice for Drainage works.

Separate foul and surface water systems with a combined final connection to the combined sewer,

All private drainage such as downpipes, gullies, manholes and Armstrong junctions to be within the site boundary. Private drains shall not pass through any property they do not serve.

Condition 6 relates to transport and specifies that the garage doors shall not be outward opening. Cost of repairs to the public road and services necessary as result of the development are to be borne by the development. Compliance with Code of Practice is also a requirement.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The changes are considered minor and acceptable in the context of the character of the area
- The additional height is not considered to have an adverse effect on adjacent property.
- The amended garage location is in line with the requirements of the traffic division and no further impacts are envisaged

3.2.2. Other Technical Reports

Drainage Division: no objection subject to conditions

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Third parties objected on basis of disregard for planning law, too small garage, discrepancies, shed doors.

4.0 Planning History

DCC ref: 3368/14 An Bord Pleanala ref: 244731 refers to permission for the conversion of a single dwelling to two dwellings. (attached)

5.0 Policy Context

5.1. Development Plan

The site is governed by the objective 'to protect, provide and improve residential amenities'.

5.2. Natural Heritage Designations

NA

5.3. EIA Screening

5.4. Having regard to the existing development on site, the nature and scale of the proposed development and the location of the site, 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. A third-party appeal has been lodged by a resident of a dwelling on Mill Close and the grounds of the appeal refer to:

- Off-Street parking: The applicant is quoted as previously stating that the former garage, due to its size and positioning, makes it impossible to manoeuvre safely in and out of it. The continued use of this substantially re-built garage (which will be slightly smaller) will be further complicated by the outward opening gates. It is further submitted that substantial demolition works provided an opportunity to improve off street parking. The garages are essentially not fit for purpose.
- Levels: It is submitted that there are serious inaccuracies in the drawings

- Drainage Details: Insufficient details of layout. Questions the feasibility of connecting to the first Dodder Valley sewer constructed in 1880s. Questions compliance with Code of Practice. It is also pointed out that permission is sought for development in this regard outside the applicant's site boundary. Further evidence of ability to comply is requested prior to any grant. The drainage condition regarding location of drainage infrastructure cannot be complied with as the applicant does not own the laneway and it does not form part of the site.
- Process: It is submitted there has been wilful and persistent disregard to the planning legislation. This is submitted by reference to use of land such as the storage of building materials and debris outside the site, removal of a planter and the use of planning permission to use land outside site boundary. The site notice was also obscured.

6.2. Applicant Response

- The appellant has previously objected to developments on the site and the planning authority and the Board have permitted one of the developments.
- The Building Control issues are a separate matter.
- Demolition works were necessary to provide a sound structural base. It is pointed out that the original external wall of the original dwelling was internal due to extension.
- The character of the building has been retained as far as possible by retaining the façade among other fabric. Previous external walls became internal walls.
- The as-built structure involves minor alterations to layout. A large proportion of the original fabric has been retained which gives flexibility in interpreting Part M of the Building Regulations.
- Visitors will be provided for. The minor reduction in depth of garage should not be of consequence. There is, in any event, no requirement for the garages to be any specific dimensions.
- In respect of drainage, completed drawings will be submitted to the Building Control section of Dublin City Council in line with the established system.

- Condition 5 has been and shall be complied with. Separate foul and surface water drainage connections can be provided and it is confirmed that a new application has been made to Irish Water. A more amenable approach for neighbours is to connect out to main road.
- The pipework is of a temporary nature pending making final connections to the combined sewer in accordance with this application and requirements of Irish Water.
- It is stated that the applicants have a legal Right of Way over the front of their property along Mill Close. Downpipes, gullies traps and previously mentioned manhole in Mill Close have always been located outside the boundary of the site. It is submitted that there is an established right of way given the time lapsed.
- It is clarified that the level 10.00m is a benchmark level.

6.3. Planning Authority Response

- No further comment

7.0 Assessment

7.1. Issues

- 7.1.1. This appeal relates to alterations to a previously approved development for the subdivision of a single dwelling house into two dwellings. The original house had pedestrian access from Orwell Road and had a right of way over a private lane - Mill Close - to a vehicular garage attached by way of an extension to the rear gable end but since blocked up. The original house also had a number of windows facing the lane. I note from the history file that the rainwater pipes also were attached to the lane façade. In the previous proposal which was before the Board, permission was granted for two dwellings each with both a pedestrian entrance and vehicular access onto the lane. The original pedestrian gate from Orwell Road is maintained and provides a shared access to the rear gardens. In this case the applicant has carried out additional demolition and the extension and remodelling works have also involved the construction of new roof and provision of the 2 dwellings. There are

number of deviations from the approved plans involving fenestration, roof profile and height and internal changes to floor levels have also been made. Permission is also sought for connection to the foul sewer and the garage doors are different. Having reviewed the submissions by the appellant, the applicant and the planning authority and contents of the file I consider the principal issues to be

- Roof profile and Impact on neighbours and character of the area
- Fenestration
- Vehicular access and traffic safety
- Drainage

7.2. Roof profile

7.2.1. The appellants are concerned about the increase in height and its impact in terms of overshadowing and character of the area. The applicant makes the case that the changes are minimal and the planning authority has accepted this.

7.2.2. In the first instance it is difficult to fully ascertain the exact extent of alterations due to the absence of consistent ordnance datum levels and adjacent structures/dwellings. However on comparison of the permitted and proposed development it appears that the original design failed to accurately take account of the gradient of the lane. The approved height at the gable end fronting Orwell Road was 6.7m.above ground level which I note is stated to be 9.51mOD (although this appears to be clarified to be just a bench mark but I have used it as a level for comparison) in the submitted drawings which means the approved roof height above ground level is 16.21mOD - The height as built is 6.67m. (16.18mOD). The built roof therefore appears to have maintained the ridge height in terms of mOD – such that the roof at the other gable end where it bounds the adjacent detached dwelling (Glenasmole) is also 16.18m.OD. However in the previous approved plans the levels of the lane are not topographically accurate. The lane is shown with only a minor slope whereas the actual gradient is steeper. The ground level (in the current drawings) at the other gable (northern) end is around 8.72mOD. This gradient is reflected in the stepped floor levels but not the roof. In addition to this, the roof has been remodelled and this is most pronounced at the northern end along the party boundary with Glenasmole. A fairly complex roof plan was approved with a symmetrical double pitch at the southern end and part

parapet concealed pitch and exposed gable pitch at the northern end with intervening gable projection from the rear slope. The ridge of the gable projection matched the main ridge at 6.7m (16.21mOD) and the northern gable end ridge 6.55m. The parapet at the northern end was approved at around 6.45m and concealed a small pitched gable (1.4m wide and .5m high as viewed above parapet height). The constructed gable end is now at a height of 7.32m. The parapet return has been removed and is partly visible at a height of 6.53m. This has resulted in an increased floor to ceiling height of over 3.5m.

7.2.3. While on the one hand the approved roof level, as expressed in mOD, has been maintained this was based on inaccurate ground levels and a proposed southern boundary gable of 6.55m at its highest, whereas the constructed structure has resulted in a double gable height of 7.32m along the boundary. Given the gradient and the need for stepping of ground levels, this should be reflected in the roof profile. This would also improve the interface on the party boundary with Glenasmole. The increased height by virtue of a stepped down ground level provides an opportunity to lower the roof whereas in fact the bulk of the roof has been increased by removing the parapet return and increasing the gable area at the boundary. In view of the floor to ceiling height and the substantial rebuilding, remodelling and new building works I do not consider the treatment at the boundary is entirely warranted. Given the orientation it is clear there would be an increase in overshadowing in the curtilage of the property and windows in the façade. While it may present as a small increase relative to that approved, it is quite significant in its cumulative impact when assessed on the basis of the original dwelling.

7.2.4. In terms of the wider visual impact in the context of the character of the area, the roof profile is open to criticism. The double gable in the southern elevation has been altered from an approved symmetrical arrangement to an asymmetrical format and this approach together the remodelling, removal of original chimney and modern heavy eaves detailing substantially erodes the traditional character of the original dwelling. The insertion of a single glazed off-centre picture windows also departs considerably from the original window style. On balance I consider the roof as constructed has an unacceptable impact on the neighbouring property. Furthermore the lack of a cohesive architectural style, disregard for the topography of the site and setting distracts from the visual amenities of the area.

7.3. Fenestration

7.3.1. Permission is sought to retain eight additional rooflights which have been inserted in addition to seven that have been approved. In this regard I note in the previous case that the extent of glazing in the rear was reduced in further information. The additional windows will add more natural light to habitable areas at first floor level. There are a lot of roof lights, but they are small in scale and limited to 2 in each slope. The current floor level would not facilitate overlooking, Accordingly I do not consider the rooflights to be objectionable in the context of protecting residential and visual amenity. The gable windows in the southern elevation onto Orwell Road would not result in overlooking of private property and would offer passive surveillance of the public road which is to be welcomed in the context of the proximity to a public amenity space along the River Dodder bank. However in terms of overall design, the approach to these windows in the context of the generally traditional idiom in the original structure, I consider the style of windows to lack contextual reference. At the very least they should be glazed with reference to original character such as side hung traditional timber and vertically proportioned windows.

7.4. Vehicular access

7.4.1. Both dwellings are accessed off Mill Close which is a private lane serving 3 other dwellings. The laneway is accessed via a 4m wide entrance and is about 4.9m wide in the vicinity of the subject dwellings before marginally widening to 5.9m. The residents are concerned about access and obstruction of the laneway.

7.4.2. While the previous proposal introduced an additional vehicular access, various modifications by way of conditions made it safer, such as the setting back of one of the garage entrances from the junction and in the subject case, the omission of outward open gates is required. However in this case the submitted plans show two pairs of side hung garage doors that open outwards onto the private lane. This is contrary to the specified requirements of the planning authority. While the timber treatment and glazed proportioning is in keeping with the original character of the dwelling, the outward opening gates would I consider, pose a traffic hazard and nuisance to other users of the lane. The objectors refer to considerable nuisance during the construction stage. The potential for ongoing obstruction should be

minimised and the requirement of the transport division in this regard strictly adhered to. The retention of outward opening doors should be refused.

7.4.3. The case is also made by the appellant that the garages are substandard and that the extent of demolition of the original structure provided an opportunity to provide larger garages that could more comfortably accommodate standard cars. The depth of around 4.4m is, I accept, constrained. The added constraint of outward open side hinged doors could make the off-street parking of cars too difficult. The doors could possibly be mounted on an up and over frame. On balance I do not consider permission should be granted for the retention of the garage doors as constructed in the interest of traffic safety.

7.5. Drainage

7.5.1. The Drainage Division very specifically states that permission should be subject to keeping rainwater goods and connections inside the red line whereas the applicant confirms that this is at odds with the established nature of rainwater infrastructure serving the original structure and that there is a right of way for services.

7.5.2. From examination of the drawings and the pipes on site it is clear that they are outside the red line, and it would seem that in order to strictly comply with the Drainage Division requirements, a redesign of the drainage system would be required. This could perhaps be achieved by collecting run-off and waste to the rear of the houses and piping along the pedestrian path/gate to the public road. In view of the previous services for the dwelling I do not consider this to be an unsurmountable issue. I do not however consider it appropriate that the connections to the system outside the development site is strictly within the scope of this application.

7.6. Appropriate Assessment

7.6.1. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any 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 a European site.

8.0 Recommendation

8.1. I recommend that permission to retain be refused for the following reasons.

9.0 Reasons and Considerations

- 9.1. It is considered that the roof profile does not reflect the topography of the site and context and that by reason of its height, bulk, design and massing as compared to that previously permitted, the retention of the roof along the north eastern boundary would have a particularly overbearing impact on the adjacent dwelling to the north east and also detract from the visual amenities of the area. The retention of the roof would therefore seriously injure the residential amenities of property in the vicinity and be contrary to the proper planning and sustainable development of the area.
- 9.2. The retention of side hung outward opening out garage doors for two vehicular entrances onto Mill Close - a short cul-de-sac less than 5m in width would be likely to obstruct the free flow of traffic and would therefore be prejudicial to public safety by reason of traffic hazard.

Suzanne Kehely
Senior Planning Inspector

20th January 2020