



An  
Bord  
Pleanála

## Inspector's Report ABP 305745-19

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<b>Development</b>	Demolition of Conservatory to side and construction of two flat roof extensions at rear and side for dining kitchen and store use, alterations to internal layout at ground floor, new pedestrian entrance in the side boundary and landscaping and site works
<b>Location</b>	No 44 Lansdowne Road, Dublin 4.
<b>Planning Authority</b>	Dublin City Council.
<b>P. A. Reg. Ref.</b>	3158/19
<b>Applicant</b>	Batale Hotel Holdings Ltd.
<b>Type of Application</b>	Permission
<b>Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Ethna Kennon
<b>Date of Site Inspection</b>	22 <sup>nd</sup> January, 2020.
<b>Inspector</b>	Jane Dennehy

## **1.0 Site Location and Description**

- 1.1. The site has a corner site at the junction of Shelbourne Road and Lansdowne Road, has stated area of 701 square metres and is that of a nineteenth century two storey over basement/garden level townhouse. It was converted for use a small hotel circa 1990 and has been subject to some alterations and additions to include a small conservatory. It is set behind cast iron railings and a front curtilage beneath granite steps to the entrance on the Lansdowne Road frontage and behind walling on the Shelbourne Road frontage with a vehicular entrance at the eastern end.
- 1.2. An apartment block is located to the rear, north side of the site with frontage and an entrance onto Shelbourne Road. Further nineteenth century houses, including one in hotel use are located along Lansdowne Road to the east side of Shelbourne Road and the lands on the opposite south side of Lansdowne road opposite the site were undergoing redevelopment at the time of inspection.

## **2.0 Proposed Development**

- 2.1. The application lodged with the planning authority indicates proposals for demolition of the existing conservatory at ground floor level and for construction of two flat roof extensions to the rear and to the side of the building for dining kitchen and store use. Alterations to internal ground floor layout are also proposed along with a new pedestrian entrance in the side frontage onto Shelbourne Road and landscaping and site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 4.0 By order dated, 26<sup>th</sup> September, 2019 the planning authority decided to grant permission subject to conditions of a standard nature but also including a requirement under Condition No 3 for omission of the pedestrian entrance proposed to be inserted in the boundary wall along the Shelbourne Road frontage along with general conservation requirements to include supervision by an architect with

conservation expertise and best practice with regard to interventions and retention of historic fabric.

#### 4.1. **Planning Authority Reports**

- 4.1.1. The conservation officer in her report advised against the proposal for the pedestrian gate to be provided through the original boundary wall on the Shelbourne Road frontage but considered the other elements of the proposed development acceptable.
- 4.1.2. The Drainage Division indicates no objection to the proposed development in its report.
- 4.1.3. The planning officer, having taken the advice of the conservation officer into consideration recommended a grant of permission with appropriate conditions attached in his report.

### 5.0 **Planning History**

**P. A. Reg. Ref. 2988/19 (PL 302226)** The planning authority decision to refuse permission for extensions and alterations was upheld following appeal for architectural conservation related reasons.

**P. A. Reg. Ref. 3128/11** Permission was refused for change of use from guesthouse to hotel use with twenty bedrooms for architectural conservation related reasons.

**P. A. Reg. Ref. 2552/96** Permission was granted for the single storey extension which was added in 1996 and is subject of the proposal for demolition in the current application.

### 6.0 **Policy Context**

#### 6.1. **Development Plan**

- 6.1.1. The operative development plan is the Dublin City Development Plan 2017-2023 according to which the site area at the rear of No 20 Upper Baggot Street, is subject

to the zoning objective .Z2: “*To protect and/or improve the amenities of residential conservation areas*”.

- 6.1.2. No 44 Lansdowne Road and most of the historic buildings in the vicinity are included on the record of protected structures.
- 6.1.3. Policy CHC2 provides for ensuring the protection of the special character and integrity of protected structures. Guidance and standards on works and additions, internally and externally, to protected structures are set out in section 11.1.5.3 which provides for minimal intervention to and maximisation of retention historic fabric and original planform, protection of proportions within buildings and relative to adjoining buildings.

## 7.0 **The Appeal**

- 7.1. An appeal was received from Ms Ethna Kennon of No 42 Lansdowne Road, the adjoining property to the south west facing onto Lansdowne Road.
- 7.2. Ms Kennon indicates that she supports the inclusion of the conditions for omission of the pedestrian gate in the boundary wall on the Shelbourne Road frontage, and the restriction on the dining room use to resident guests which if not excluded, she contends, would have contributed to overdevelopment on the site.
- 7.3. Nevertheless, she contends that the development included within the proposal, which is permitted, according to the planning authority decision, amounts to overdevelopment in the context of the protected structures and the established historic architectural and residential area and, in particular. her own adjoining residential property She mentions the proposed footprint and scale, odours, noise and anti-social behaviour especially at times of events at the nearby AVIVA stadium. Ms Kennon also indicates objection to the use of glazing in the new structure due to concerns about impact on the privacy at her property.

### 7.4. **Applicant Response**

- 7.4.1. A submission was received from Armstrong Planning on behalf of the applicant on 18<sup>th</sup> November, 2019 according to which:

- The proposed development is for a dining room which is 30.5 square metres in floor area and a kitchen which is 9.6 square metres in floor area is not overdevelopment and is located opposite an extensive seven storey apartment block building complex. The conservatory at fifteen square metres in area is to be removed and the existing buildings have a floor area of 268 square metres with site coverage at 43% which is below the indicative coverage according to the CDP of 45% for 'Z2' zoned lands.
- As regards the contentions about generation of odours and noise, the existing use as a hotel to which the existing conservatory was added in the mid-1990s is not a new use. The applicant agrees with and will comply with the requirement of Condition Nos 6 and 8 for compliance with BS 5228 and during construction and Codes of Practice for Noise and Air Pollution.
- The architectural character and setting of the protected structure will not be undermined by the proposed development which will be hidden from public view by being at ground floor only and set back from the boundary wall. The works will only affect the later additions to the protected structure and the materials and finishes will match it and the local context and character of the area.
- The modest size and single storey nature of the proposed development eliminates any potential for overlooking of the adjoining properties.
- In conclusion it is contended that qualitative and functional improvements in the proposal, including storage arrangements and the limitations in size and confinement to the ground floor level its limitations in size and ground floor level along with visual and physical separation from Shelbourne Road are intended in the application. Matching the brickwork and brick bonding and matching the windows and doors in the extensions which are not part of the original structure in a counterfeit fashion would conflict with the original structure and would be contrary to good conservation practice.

## **7.5. Planning Authority Response**

- 7.5.1. There is no submission from the planning authority on file.

## 8.0 Assessment

- 8.1.1. The application is for a modest, net increase in floor space providing for a rearrangement of the internal layout for dining room, kitchen and ancillary facilities at ground floor level only at Butler's townhouse, an extant and well-established guesthouse business operation at the house.
- 8.1.2. It is not accepted that the proposed development is overdevelopment, given the modest net increase in floor area involved, some of which is ancillary space and that it is single storey. However, in the absence of the restriction imposed by condition whereby the use of the dining facilities is confined to use by guests in residence at the guesthouse and correspondingly, the proposed pedestrian entrance via the front boundary wall onto Shelbourne Road is also omitted, concerns as to potential for changes in intensity and nature of use resulting in adverse impact on residential amenities of properties in the vicinity would be understandable.
- 8.1.3. It is of note that in the applicant's submission in connection with the appeal an undertaking is given to accept and comply with the conditions attached to the planning authority with regard to the required omissions and with regard to compliance with standards in BS 5228 during construction and demolition stages and BS 4142 during operational stages in respect of noise control. It is also agreed, given the single storey of the proposed development and the proposed setback with the extant party boundary treatment with adjoining properties that there is question of potential for direct overlooking of adjoining properties.
- 8.1.4. Separately, the recommendations set out in the conservation officer report, which are reflected in the conditions attached to the planning authority decision are fully supported. The proposed new intervention to the historic walling along the Shelbourne road frontage which is a significant element to the integrity and context of the house, a protected structure, is unwarranted. It is not considered essential for the viability of the business operation at the premises. Its omission corresponds with view that the use of the dining facilities should be confined to resident guests, in the interest of residential amenity and clarity so that there is no material change of use to that which has previously been authorised. Similarly, the setting back of the proposed pedestrian entrance to the courtyard to increase the separation distance from and avoid conflict when in use, with the wrought iron railings at the Shelbourne

Road frontage also required by condition attached to the planning authority decision is also supported. The nature of the works involved to facilitate the proposed development and the proposed materials and finishes are considered acceptable.

## **8.2. Environmental Impact Assessment – Screening.**

8.2.1. Having regard to the minor nature of the proposed development and its location in a serviced inner suburban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **8.3. Appropriate Assessment.**

8.3.1. Having regard to the scale and nature of the proposed development and to the serviced inner suburban location, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

In view of the foregoing, the planning authority's assessment and decision with the conditions attached to it are supported and it is recommended that the planning authority decision be upheld, based on the reasons and consideration and conditions set out overleaf.

## **10.0 Reasons and Considerations**

Having regard to the planning history for the site and to the extant use it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of adjoining properties would not adversely affect the integrity and special architectural character of the existing house which is included on the record of protected structures or its visual amenities within the context of the streetscape. As a result, the proposed development would be in accordance with Policy CHC 2 which provides for ensuring the protection of the special character and integrity of protected structures and, the zoning objective "Z2" *To protect and/or improve the amenities of*

*residential conservation areas*” of the Dublin City Development Plan, 2016-2022. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions.

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars lodged with the planning authority on 30th August, 2019 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.

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

- 2 The proposed development shall be amended as follows:



- (a) The pedestrian entrance door shown in the boundary wall along the Shelbourne Road frontage shall be omitted.
- (b) The pedestrian door in the walling proposed for the courtyard shall be repositioned inwards within the site by a minimum distance of two metres.
- (c) the demolition and construction works shall be carried out in accordance with the recommendations within: *Architectural Heritage Protection: Guidelines for Planning Authorities* issued by The Department of the Environment, Heritage and Local Government in 2005. .

Prior to the commencement of the development, the applicant shall submit and agree in writing with the planning authority revised plans. The development shall not be made operational unless all works have been completed to the satisfaction of the planning authority.

**Reason:** In the interest of clarity, and to ensure the protection of the . integrity and special interest of the existing development at No 44 Lansdowne Road, a protected structure and the visual amenities and established architectural character of the area.

- 3. Hours of work shall be confined to 0700 to 1900 Mondays to Fridays inclusive, excluding bank holidays and 0800 to 1400 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

**Reason:** In the interest of residential amenity.

- 4. Throughout construction and demolition stages, the development shall be carried out in accordance with the standards set out in BS 5228: *Noise Control on Construction and Open Sites Part 1: Code of Practice for basic information and procedure for noise control*. Throughout operational stages, the rated noise levels emanating from the development shall not constitute reasonable grounds for complaint as provided for in BS 4142, *Method for rating industrial noise affecting mixed residential and industrial areas*.

**Reason:** In the interest of clarity and residential amenities.

5. All necessary measures shall be taken to prevent spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the site works.

**Reason:** In the interest of public amenity orderly development and traffic safety.

6. Details of the materials, colours and textures of all the external finishes for the proposed extensions including doors and windows, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

8. 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.

**Reason:** 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.

**Jane Dennehy**  
**Senior Planning Inspector**  
**6<sup>th</sup> February, 2020.**