



An
Bord
Pleanála

Inspector's Report

ABP-306498-20

Development

PROTECTED STRUCTURE:

Demolition of a house and replacement with a three-storey over part-basement courtyard house. Part-demolition and reconstruction / conservation of the existing ashlar limestone walls bounding the site.

Location

24 Fitzwilliam Lane, Dublin 2.

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

3430/19

Applicant(s)

Neill Hughes.

Type of Application

Permission.

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Wejchert Architects.

Observer(s)

None.

Date of Site Inspection

13th March 2020.

Inspector

Karen Kenny

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1.0 Site Location and Description

- 1.1. The site is located on Fitzwilliam Lane, Dublin 2. Fitzwilliam Lane is a mews lane located between Baggott Street Lower and Merrion Square South. The application site was originally part of no. 24 Baggott Street Lower, a Protected Structure (RPS no. 348).
- 1.2. The properties on Baggott Street Lower and Merrion Square South are substantial Georgian properties. There are a variety of building types along the lane including mews dwellings, an apartment development to the rear of no. 18-22 Baggot Street and a multi storey car park to the rear of no. 29-36 Baggot Street Lower.
- 1.3. The site has a stated area of 192 sq.m. There is a two-storey gabled fronted dwelling (74 sq.m) on the site that is set back from the lane by c. 6 metres. The submitted floor plans suggest that the building has been in office use. The original stone boundary walls of no. 24 Baggott Street Lower are in place along the south eastern and north western boundaries of the site. The adjoining properties to the east and west have not been subdivided and have yard areas to the rear.

2.0 Proposed Development

- 2.1. The applicant sought permission to demolish the existing dwelling house and to replace it with a new 3-storey over part basement house with a stated area of 282 sq.m. The development included the part demolition and reconstruction of existing limestone boundary walls.
- 2.2. The development was amended on foot of a request for further information and the revised proposal can be described as follows:
 - 3-storey over part basement gable fronted house.
 - The footprint of the proposed dwelling was reduced through the omission of a courtyard and a reduction in floor area from 282 sq.m to 273 sq.m.
 - The rear building line at 1st and 2nd floors has been brought forward to align with mews dwellings to the east. The ground floor would project by c. 2.2 m beyond the rear building line and there is a terrace above this at 1st floor level.
 - The boundary walls would be repaired, retained and consolidated.

3.0 **Planning Authority Decision**

3.1. **Decision**

Grant permission subject to conditions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

Following an initial assessment, the PA sought further information. Items raised related to the scale, massing and footprint of the proposed dwelling; the demolition of historic boundary walls; overlooking of no. 23 Baggott St Lower and detail in relation to the site context. The applicant submitted revised proposals. The Planning Officer's Report following the submission of further information recommended that permission be granted.

3.2.2. Other Technical Reports

Conservation Officer: Concern raised in relation to erosion of historic character of the mews lane.

Drainage: No objection.

Roads: No objection.

3.3. **Prescribed Bodies**

TII: LUAS Cross City Section 49 Levy

3.4. **Third Party Observations**

A third-party observation was received from the owner of no. 23 Baggott Street Lower (appellant). The matters raised are similar to those raised in the grounds of appeal.

4.0 Planning History

There is no recent planning history on the application site or on the immediately adjoining sites.

5.0 Policy Context

5.1. Development Plan

The Dublin City Development Plan 2016-2022 is the relevant statutory plan. The site is zoned Z1 with an objective “to protect, provide and improve residential amenities”. Development standards are set out in Chapter 16.

5.2. Natural Heritage Designations

None.

5.3. Environment Impact Assessment

- 5.3.1. Having regard to the nature and scale of the proposed development of housing on zoned and serviced land and the nature of the receiving environment, 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

- 6.2. A third-party appeal has been received from the owner of the adjoining property no. 23 Baggott Street Lower. The grounds of appeal can be summarised as follows:

- Scale of development.
- Overlooking of rear windows in no. 23 Baggott Street Lower.
- Loss of daylight / overshadowing impacts.
- Conservation and preserving Architectural Conservation Areas.

- Impact on privacy and amenities of adjoining properties.

6.3. Applicant Response

The applicant's response can be summarised as follows:

- The revised proposal reduces the scale and bulk of the proposed development shortening its depth and lowering its eaves levels. The main rear elevation is aligned to the rear building line of the mews houses to the south east. The footprint of the building is significantly reduced with a site coverage of 57% and plot ratio of 1:1.37 (compared to an indicative max of 2.0 in the development plan).
- The scale of the development is reasonable in the context of Fitzwilliam Lane given the size of other buildings. The proposed dwelling is clearly subservient to the Baggot Street house and would be considerably lower than the modern apartment block constructed to the north west of the property.
- Concerns in relation to overlooking derive from the fact that the original mews building at no. 23 was removed and an office structure inserted to the rear of the main house. This is a departure from the established pattern of development. The design of the house, as modified, is a reasonable response to the concerns raised by the PA. The existing dwelling on the appeal site is only slightly further from the appellant's office building. The separation between the proposed dwelling and the rear elevation of no. 24 is increased to 28.35 m. Overlooking should relate to the face to face separation between windows to habitable rooms opposite each other. The amenity of an office building in a dense urban context is not comparable to that of a dwelling. In relation to the terrace the Board is asked to note that a timber screen is proposed along the mutual boundary to prevent overlooking.
- A sunlight / daylight assessment submitted with the appeal response shows that there would be no material impact on the appellants property in terms of daylight and sunlight.
- The appeal site and immediately adjacent mews lane properties are excluded from the conservation designation on Fitzwilliam Lane.

- In response to conservation concerns it is proposed to preserve the limestone boundary walls of no. 24. A Grade 1 conservation specialist advised in relation to preservation.
- In relation to impacts on historic character, the pattern of development has changed along the lane whereby large-scale structures have been permitted up to the edge of the lane (inc. the apartment block to the west and the applicants office building to the rear of no. 24).

6.4. **Planning Authority Response**

No response received to date.

6.5. **Observations**

None.

6.6. **Further Response**

The appellant submitted a further response on 27th March 2020. The matters raised can be summarised as follows:

- Disregard for protected structure status of the site. No. 24 Fitzwilliam Lane lies within the curtilage of no. 24 Baggott Street Lower, RPS Ref. 348.
- The PA's Conservation Division state that the revised scheme "sets an undesirable precedent for the future of the last remaining intact row of mews houses along this stretch of Fitzwilliam Lane.
- The proposed scheme will result in direct overlooking and loss of privacy at no. 23.

7.0 **Assessment**

7.1. I have read the appeal file, all associated reports and plans and visited the appeal site and the surrounding area. The proposed development comes forward on land zoned for residential development and is therefore acceptable in principle. The dwelling to be demolished is of no architectural heritage value. Further, the development accords with the relevant standards for residential development in the

development plan. I consider, therefore, that the main issues for consideration in the appeal relate to the matters raised by the appellant, namely:

- Scale
- Overlooking
- Sunlight, daylight and overshadowing
- Conservation

7.2. Scale

7.2.1. The grounds of appeal argue that the 9 sq.m reduction in floor area cannot be considered a reasonable response to the request of the PA for a significant reduction in scale. The applicant's response argues that floorspace is not an appropriate measure of scale. It is noted that the footprint and plot ratio of the dwelling and the eaves level was reduced to address concerns raised by the PA at further information stage.

7.2.2. The proposed development comprises the replacement of an existing two storey mews dwelling with a three-storey over part basement dwelling. The main rear building line of the proposed dwelling is in keeping with the rear building line of mews dwellings on sites no's 26-28 to the southeast. The front building line extends to the lane, where the other dwellings maintain a setback. In the wider context there is a multi-storey car park to the rear of no's 29-36 Baggot Street Lower and a large apartment development to the rear of no's 18-22 Baggot Street Lower, both substantial structures that front directly onto the lane (detailed on p11 of the applicants appeal response). Having regard to the mixed character and scale of development along the southern side of the lane at this location I consider that the proposed development would not appear incongruous or over-scaled and that it is acceptable in this respect.

7.3. Overlooking

7.3.1. The grounds of appeal argue that the proposed development would directly overlook the appellants property and result in an unacceptable loss of privacy. It is noted that

the windows and doors in the rear elevation of the proposed dwelling at upper levels are 6.15 m from the existing rear window in the appellants property. The appeal refers to Section 16.10.2 of the Dublin City Development Plan which states that a separation distance of 22 metres is sought between opposing rear windows in dwellings. The windows in the rear elevation of the proposed development do not directly oppose windows in the rear elevation of no. 23 Baggot Street Lower as the site is located to the south east of no. 23. Any potential views of the appellants property would be at an oblique angle. Furthermore, I would note that the 22 m standard in the development plan is specific to residential development and would not apply in the case of a commercial property, such as no. 23 Baggott Street. In relation to the proposed terrace at first floor, the applicant draws the Boards attention to the fact that a timber screen is proposed along the mutual boundary to prevent overlooking. This is illustrated in a section drawing on p13 of the appeal response and in the sections submitted with the further information. I accept the applicant's argument that the level of separation proposed is sufficient having regard to the tight urban context and the fact that the properties are not directly opposite. On this basis, I consider that the proposed development would not unduly impact on the amenities of the appellants property by way of overlooking.

7.4. Sunlight, daylight and overshadowing

The grounds of appeal note that the applicant has not undertaken a Light Impact Assessment Report for the revised design. The applicant has submitted this with the appeal response. The assessment shows that the proposed development would not significantly alter the existing situation with regard to sunlight and daylight and overshadowing impacts. I consider that the level of overshadowing shown is to be expected in a dense built-up area and that this would not constitute reasonable grounds for refusing planning permission.

7.5. Conservation

The appeal highlights concerns raised in the report of the PA's Conservation Officer in relation to the incremental erosion of the character of the traditional coach house lane through larger scaled development. The appeal states that the site is within an Area of Archaeological Conservation and that more weight should be given to the

concerns raised by the Conservation Officer. However, the properties on the southern side of the lane are excluded from the Conservation Area designation detailed on Map E of the Dublin City Development Plan. This area has evolved overtime and comprises a range of building styles and scales as discussed in Section 7.2 above. I am of the view that the proposed development would not impact unduly on the remaining historic character of the lane. In relation to the structures along Baggott Street Lower, which are Protected Structures I am satisfied that the proposed development would be subservient to the structures and that it would not interfere with views of the Georgian terrace on Baggott Street Lower. On this basis I am satisfied that the proposed development would not have a negative impact on the historic character of the area.

8.0 Appropriate Assessment

- 8.1.1. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, in particular its location in a serviced urban area, 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.

9.0 Recommendation

I recommend that permission is granted subject to the conditions set out below.

10.0 Reasons and Considerations

Having regard to the location of the site in an urban area and the pattern of existing development in the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity and would not conflict with the objectives of the Dublin City Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 CONDITIONS

1	<p>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 submitted on the 26th day of November 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity</p>
3.	<p>The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
4.	<p>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.</p> <p>Reason: In the interest of public health.</p>
5.	<p>Entrance details, including gates, shall comply with the requirements of the planning authority for such works.</p> <p>Reason: In the interest of traffic safety.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 08.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 13.00 on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional</p>

	<p>circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the [residential] amenities of property in the vicinity.</p>
7.	<p>The works hereby approved shall be carried out under the professional supervision on-site of an architect or expert with specialised conservation expertise, in accordance with the Department of the Environment, Heritage and Local Government, Architectural Heritage Protection, Guidelines for Planning Authorities and in accordance with Best Conservation Practice.</p> <p>Reason: To ensure that the integrity of this protected structure is maintained and that all works are carried out in accordance with best conservation practice.</p>
8.	<p>All necessary measures shall be taken by the contractor including wheel wash facilities, to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of works.</p> <p>Reason: To protect the amenities of the area.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with</p>

	<p>the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p>
10.	<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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 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>

Karen Kenny,
Senior Planning Inspector

2nd October 2020