



An
Bord
Pleanála

Inspector's Report

ABP-306975-20

Development	RETENTION: of a studio apartment at basement level together with existing external staircase and permission for the installation of a window on the existing side elevation
Location	13, Synnott Place, Dublin 7, D07 E7N5
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	2008/20
Applicant(s)	Enda McHugh
Type of Application	Retention Permission & Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party V. Refusal
Appellant(s)	Enda McHugh
Observer(s)	None
Date of Site Inspection	23 rd June 2020
Inspector	Máire Daly

1.0 Site Location and Description

- 1.1. The subject site is an end of terrace three storey over basement Georgian property located at the corner of Synnott Place and Synnott Row on the northern side of the city approximately 0.7km northeast of O'Connell Street.
- 1.2. The existing structure has a Turkish style barber shop on the ground floor, with access from the front (southern) elevation. Residential uses are provided for on the first and second floor of the building with access from a doorway and stairwell off Synnott Row, along the western elevation of the building. The basement apartment (circa. 39sqm) which is the subject of this appeal is accessed via an external concrete staircase from the front of the building off Synnott Place. The apartment currently has an access doorway and a single front window at basement level, no other windows or openings exist to the rear or side of the basement.
- 1.3. The subject site is an end of terrace structure joined to the east by twelve other 3 storey over basement Georgian buildings, all with a traditional red brick front facade finish. Numbers 1 to 12 Synnott Place are all identified as Protected Structures under the current Dublin City Development Plan 2016-2022 and are listed on the National Inventory of Architectural Heritage (NIAH). The subject site, No. 13 is the only structure in the row that is not a Protected Structure or listed on the NIAH.

2.0 Proposed Development

- 2.1. The proposed development was to originally comprise of:
 - Retention of the existing studio apartment at basement level.
 - Retention of the existing external access stairwell which connects street level with the basement areaway.
 - Permission for the installation of a new window on the side elevation (western) of No. 13 fronting onto the side street of Synnott Row.
- 2.2. The Board should note that the appellant now proposes to put forward an alternative development proposal for the site. He recognises that the apartment at basement level has limited access to daylight and represents an inappropriate form of

development. He now proposes an alternative subsidiary use to the main building which includes the following:

- Ancillary storage/utility facility for use by residents of the first and second floor apartments of the building at No.13. The basement would provide storage, utility/cloths drying facility, study area, playroom, bicycle storage and bin storage.
- Retention of front areaway and external access stairs.
- Permission for the installation of a new window on the side elevation (western) of No. 13 fronting onto the side street of Synnott Row.
- Replacement of existing modern front railing at no. 13 with a more traditional style of railing to match No. 11 and No.12.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reason:

1. *The basement studio unit, which is proposed to be retained, would provide for a residential unit located substantially below natural ground level, would be afforded limited access to daylight and sunlight. Accordingly, the development, by reason of its limited access to daylight, outlook, and non-provision of private open space would constitute a substandard and unacceptable form of residential accommodation which would have an unacceptable negative impact on the residential amenities of future occupants. Furthermore, the external stair access and railings are not considered to be in keeping with the streetscape. The subject application is therefore considered to be would be contrary to the requirements policy QH18 of the Dublin City Development Plan 2016-2022 which seeks 'To promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments', as well as being contrary to proper planning and sustainable development of the area*

and contrary to the zoning objective Z2 'to protect and/or improve the amenities of residential conservation areas.'

3.2. Planning Authority Reports

3.2.1. Planning Reports

The recommendation to refuse permission in the Area Planner's Report reflects the decision of the Planning Authority.

- The proposed additional small window to the side of the basement would not sufficiently improve the outlook, daylight and ventilation of the subject site.
- No private open space provision would be made for the subject unit and accordingly the overall standard of internal residential amenity is considered substandard and therefore cannot be supported.
- External stair access is not in keeping with the streetscape and the external railing that exists to the front of the adjoining buildings on the terrace which are protected structures.
- The proposal would have a detrimental impact on the character of the Z2 Conservation Area in which the site is located.

3.2.2. Other Technical Reports

- Drainage Division – Dublin City Council (DCC) – Report dated 10th February 2020 - no objection subject to conditions.

3.3. Prescribed Bodies

- Transport Infrastructure Ireland (TII) – submitted observation stating that the proposed development falls within an area set out in a Section 49 Levy Scheme for light rail. In the event of a grant of permission, if the development is not exempt from this charge then a contribution levy should be attached.
- NTA – No response

3.4. Third Party Observations

None.

4.0 Planning History

4.1. On site

- DCC - PA. Ref. 3884/19 – 2019 – Permission refused for:
 - 1) retention of new access stairs to basement at front of building;
 - 2) change of use from basement storage area to studio apartment (38sqm);
 - 3) retention of side access door to 4 bedroom dwelling;
 - 4) Rooftop terrace area (c. 10sqm);
 - 5) Internal modifications.Refusal for two reasons 1. Substandard residential accommodation, overdevelopment of subject site, external staircase and railing not in keeping with Z2 conservation area and surrounding 2. The description of the development and the works seeking retention permission were not accurately described.

- DCC – PA. Ref.3505/19 – 2019 – Permission granted for change of use of storage area to rear of building to a 1 bedroom mews type dwelling circa. 65sqm.

- DCC – PA. Ref. 4672/04 – 2004 – Permission granted to rear of No.13 for demolition of rear buildings onto Synnott Row and the refurbishment of the 3 storey over basement front building on to Synnott Place to provide 2 no 2 bed duplex apartments with velux rooflights to rear roof; the removal of the shop front and the reinstatement of the basement area and railings to match adjoining on Synnott Place; the construction of a rear replacement building on to Synnott Row comprising 1 bed duplex and 2 bedroom apartment.

4.2. Enforcement History on site

- DCC – PA. Ref. EO181/18 – open case – unauthorised use.

4.3. Adjacent site

DCC – PA. Ref. 4144/19 – 2019 – Permission granted at No. 12 Synnott Place for the refurbishment of this Protected Structure to provide a residential unit at basement level and a residential unit at the upper floors.

- Relevant works permitted included the following: the proposed repair /replacement of the existing external staircase and handrail to the front of the property.
- Condition No. 2 (g) was attached to the grant of permission which stated the following.

g) The applicant shall provide revised details of the proposed external staircase, including 1:20 details. The staircase shall be relocated to the opposite side of the house, the design of the guarding shall be revised so that it is of "light-touch" so as not to compromise the architectural character of the Protected Structure and shall be of the highest possible architectural quality. Reason: To ensure that the integrity of this protected structure is maintained and that the proposed repair works are carried out in accordance with good conservation practice with no unauthorised or unnecessary damage or loss of historic building fabric.

5.0 Policy Context

5.1. Development Plan

5.1.1. Zoning

The operative development plan is the **Dublin City Council Development Plan 2016-2022**. The site is located in an area zoned Z2 with the following objective;

'To protect and/or improve the amenities of residential conservation areas'.

5.1.2. **Policy - QH1:** To have regard to the DoEHLG Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007); 'Delivering Homes Sustaining Communities – Statement on Housing Policy' (2007), 'Sustainable Urban Housing: Design Standards for New Apartments' (2007) and 'Sustainable Residential Development in Urban Areas' and the accompanying Urban Design Manual: A Best Practice Guide (2009).

5.1.3. **Policy – QH18:** High quality apartments.

5.1.4. **Policy CHC4:** To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting all conservation areas will

contribute positively to the character and distinctiveness; and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. Development will not:

- Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the conservation area;
- Harm the setting of a conservation area;
- Constitute a visually obtrusive or dominant form.

Changes of use will be acceptable where, in compliance with the zoning objective, they make a positive contribution to the character, function and appearance of conservation areas and their settings. The council will consider the contribution of existing uses to the special interest of an area when assessing change of use applications and will promote compatible uses which ensure future long-term viability.

5.1.5. **Section 11.1.5.6 – Conservation Area – Policy Application**

This section outlines the considerations that should be taken into account when examining proposals within Z2 areas and the application of Policy CHC4.

5.1.6. **16.2.1 - Design Principles**

This section provides guidance on design standards, in particular it states that development should respond creatively to and respect and enhance its context, and have regard to:

- The character of adjacent buildings, the spaces around and between them and the character and appearance of the local area and the need to provide appropriate enclosure to streets,
- Existing materials, detailing, building lines, scale, orientation, height and massing, and plot width.

5.1.7. **Section 16.10 - Standards for Residential Accommodation in particular:**

- Floor areas.
- Aspect, Natural Lighting, Ventilation and Sunlight Penetration.
- Internal Space Configuration for Apartments.

5.1.8. **Section 16.10.15** – Basements

This section provides guidance on acceptable basement developments. In considering applications for basement developments regard should be had to the following:

- Adequate sunlight/daylight penetration will be required which will be influenced by site orientation and the size of site and any lightwell/courtyard; the planning authority may require a daylight analysis to be submitted as part of a planning application.

5.2. **National Guidance**

5.2.1. Section 5.2, Lifetime Homes guidance - the Department of Environment, Heritage and Local Government 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining.

5.2.2. Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities. Department of Housing, Planning and Local Government, 2018.

In particular the following standards and Specific Planning Policy Requirements (SPPR) are relevant:

- SPPR 3 – Minimum Apartment Floor Areas – current basement apartment has a stated floor area of 39.5sqm. The minimum floor area as required in the guidelines is 37sqm for a studio apartment. Therefore, the current apartment falls within the requirements.
- Sections 3.20 – 3.25 - Floor to Ceiling Height – current apartment complies.
- Sections 3.30 – 3.34 - Internal Storage - current apartment complies.
- Sections 3.35 – 3.39 – Private Amenity Space – basement apartment – no private open space provision has been provided.
- Appendix 1 – Required Minimum Floor Areas and Standards - current apartment complies.

5.3. **Natural Heritage Designations**

None relevant.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- 6.1.1. The Board should note that the appellant now proposes to make a material change to the proposal which formed the basis of the original application. He accepts that the studio apartment, previously proposed for retention, represents an inappropriate form of development due to the poor residential amenity standards it would provide and lack of access to daylight.

The appellant now wishes to put forward an alternative proposal for the basement as follows:

- Basement to comprise of ancillary use to the residential property at No.13 (located at first floor and second floor level). The basement's new use would include storage, utility room/clothes drying facility, study, playroom, bicycle storage and bin storage.
- Retention of front areaway and external concrete access stairs to basement.
- Proposed side window at basement level, facing onto Synnott Row.
- Replacement of existing front railing at no. 13 with a more traditional style of railing to match No. 11 and No.12 (which currently has approval for replacement railing to be agreed with Planning Authority – see PA. Ref. 4144/19).

- 6.1.2. If the Board are minded to consider the current proposal as part of the appeal, an assessment of each new element is carried under Section 7 below.

6.2. **Planning Authority Response**

- None.

6.3. Observations

- None.

7.0 Assessment

- 7.1.1. I acknowledge that the current proposal differs significantly from that which was originally submitted to the Planning Authority and also on appeal to the Board. The proposal is considered a material change to the original application and the nature and extent of the newly proposed development has not been stated on the description of the appeal submitted. In addition, it is acknowledged that the public, planning authority and consultation authorities have not been afforded the opportunity to comment. The Board may wish to dismiss the appeal on the basis that a new application would be required which outlines the new proposal in detail.
- 7.2. As stated, the current appeal is not in relation to the original application and that the appellant now proposes to change several elements of the development. In particular, the appellant proposes a material change, omitting the previously proposed residential use at basement level and now proposes a use ancillary to the main residential building at No. 13. In this instance the Board may consider it appropriate to request the applicant to re-advertise the development detailing the new proposed use. Details of the proposed new use are discussed under Section 7.3 below.
- 7.3. Having examined the application details and all other documentation on file, inspected the site and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in relation to the revised current proposal are as follows:
- Principle of Development - Change of Use
 - Retention of external access stairway
 - Replacement of railing to front of property
 - Proposed new side window
 - Appropriate Assessment

7.4. Principal of Development - Change of Use

- 7.4.1. The appellant now proposes to change the use of the basement to a use ancillary to the residential property on the first and second floor of No.13. A revised Drawing No. 6444 has been submitted with the appeal showing the proposed new layout and use. The basement is now proposed to provide an additional storage area for the main residential property and include a utility room/clothes drying facility, study, playroom and bin storage. A small lobby area will be provided under the main ground floor access way for bike storage.
- 7.4.2. The site is zoned Z2 Residential Neighbourhoods (Conservation Areas) with a Land-Use Zoning Objective Z2: *To protect and/or improve the amenities of residential conservation areas*. The proposed use which would be ancillary to the main dwelling is therefore a permissible use within this zoning category. As such the proposal is acceptable in principle, subject to the detailed considerations below.
- 7.4.3. Policy CHC4 of the Dublin City Development Plan 2016-2022 states that 'Changes of Use' will be acceptable where, in compliance with the zoning objective, they make a positive contribution to the character, function and appearance of conservation areas and their settings. It is considered that the proposed change of use, to a use ancillary to the main residential unit at No. 13 is a more appropriate use for the basement. As the basement is no longer to be used as a habitable space (one bedroom apartment) the standards that would have applied to a residential property as raised in the original Area Planner's report would no longer apply.
- 7.4.4. The appellant has stated that the proposed basement use will be available to the occupant of the upper floors (first and second floors) at No. 13. From an examination of previous applications on the site, DCC Ref No. 4672/04 would appear to be the last relevant permitted development to the main residential unit on the first and second floor to the front of the building at no. 13. This application permitted the development of 2 no. 2 bed apartments in this area. The current application however refers to just one residential dwelling over the first and second floor and that the basement would be ancillary to this property. While I have no issue with the basement being used ancillary to the main dwelling at No. 13, I would have concerns with regard the inconsistencies in relation to the main building layout. If the Board are minded to grant this amended proposal, they may want to request details of the

layout of the main dwelling at No. 13 (for which the current proposal will form an ancillary use) in the interest of clarity, prior to determining the application.

7.5. Retention of External Access Stairway

- 7.5.1. The site is not located within an Architectural Conservation Area or a designated red hatched Conservation Area as shown in the Dublin City Development Plan map. However, the dwelling is located in a Z2 Residential Conservation Area and at the end of a terrace of protected structures along Synnott Place. The external staircase is comprised of solid concrete and varies from those to the front of the adjoining buildings along Synnott Place. I note that the current structure is not a protected, however the uniformity of any development to the front of this structure is important given its location at the western end of this terraced streetscape of protected structures on Synnott Place. The majority of the access stairways outside of each of the protected structures along the street are comprised of a metalwork finish that also complements the existing railing to the front of the structures. I do however feel that as the staircase is not visible from the streetscape and as the structure is not a protected structure, that requesting removal of the existing staircase and replacement with a metalwork staircase would be unwarranted. Provided the design of the railing to the front of the structure is addressed, I would consider that the development would sufficiently take account of the streetscape along Synnott Place and conform to a sufficient degree so as not to have a negative impact on the adjoining protected structures. These requirements are further discussed in Section 7.5 below.

7.6. Replacement of Railing to Front of No.13

- 7.6.1. It is noted that the appellant has stated that he proposes to replace the existing modern railings outside No. 13 with railing to match that to the front of the adjoining buildings, in particular that of the railing outside No.11.
- 7.6.2. Section 16.2.1 of the Dublin City Development Plan 2016-2022 provides guidance on design standards and in particular it states that development should respond creatively to and respect and enhance its context and have regard to the character of adjacent buildings and the character and appearance of the local area. In addition, it states that existing materials and detailing should be taken into account when

assessing proposals. The proposed replacement railing would ensure uniformity along the street and enhance the adjoining protected structures and streetscape. In addition, ensuring a more appropriately designed railing is put in place, would ensure compliance with Policy CHC4, which seeks to protect the special interest and character of all Dublin's Conservation Areas. If the Board are minded to grant this amended application, the appellant should be requested, by way of condition, to submit proposals to the Planning Authority for agreement, for replacement of the existing railing to the front of No.13 with railing of a similar design to that in front of No.11. The appellant is therefore requested to remove the railings that exist and replace with a suitable alternative.

7.7. Proposed new side window

- 7.7.1. The appellant proposes to install a new side window on the western elevation of the basement wall, fronting onto Synnott Row. This window also formed part of the original application to allow additional light into the basement when a residential use was proposed. As the current proposal does not propose habitable rooms and instead proposes 'storage/utility room clothes drying' use, it is not considered that this additional window is necessary. There are currently no other windows at this low level fronting onto the street at Synnott Row and its addition now would not be considered appropriate. The basement area has ventilation provided via a door and window from the front room. As the basement is to be ancillary to the main residential unit and not a separate living unit, the current ventilation is considered sufficient. The additional window should therefore be omitted by way of condition.

7.8. Appropriate Assessment

Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest 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

I recommend that planning permission should be granted for the revised proposal, subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the ancillary nature of the proposed revised development, it is considered that subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the amenities of the residential conservation area or the property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the appeal, 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 window on the western elevation of the basement shall be omitted.

Reason: In the interest of visual and residential amenity.

3. Prior to commencement of development, the applicant shall submit revised details of the proposed replacement railing to the front of the property to the planning authority for agreement. The replacement railing shall be similar in style to that of the railing to the front of the adjoining protected structures and shall be of the highest possible architectural quality.

Reason: In order to protect the character of the residential conservation area and the adjacent protected structures.

4. The basement shall be used for purposes ancillary to the main residential building at No. 13 Synnott Place (as specified in the lodged appeal documentation), and shall not be used, let or leased as a separate residential unit unless otherwise authorised by a prior grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity

Máire Daly
Planning Inspector

7th July 2020