



An
Bord
Pleanála

Inspector's Report

ABP-307518-20

Development

Demolition of an existing bathroom at first floor level, alterations to the interior layout and rear external elevation; the construction of a new bedroom extension with en-suite at first floor level and the provision of all other associated site excavation, infrastructural and site development works above and below ground.

Location

23, Dartmouth Walk, Dublin 6,
D06XH74

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

WEB1555/19

Applicant(s)

Fidelma Macken

Type of Application

Permission

Planning Authority Decision

Grant with Conditions

Type of Appeal

Third Party

Appellant(s)

Sinead Keane

Observer(s)

None

Date of Site Inspection

27th October 2020

Inspector

Mary Crowley

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1.0 Site Location and Description

1.1. The appeal site with a stated area of 120sqm is a two-storey mews property located to the south of the Grand Canal within an Architectural Conservation Area. It is constructed of stone, has two distinctive first floor dormer elements and a pitched roof and forms part of a terrace of similar houses. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

2.0 Proposed Development

2.1. The development submitted to DCC on 24th September 2019 will consist of the following:

- the demolition of an existing bathroom at first floor level, alterations to the interior layout and rear external elevation
- the construction of a new bedroom extension with en-suite at first floor level (21sqm) and
- the provision of all other associated site excavation, infrastructural and site development works above and below ground

2.2. The application was accompanied by a cover letter.

2.3. In response to a request for **further information** the applicant submitted the following as summarised on the 15th May 2020:

- The proposed extension at first floor level has been completely redesigned. The changes include a varying and reduced rear building line depth, a reduced first floor footprint, modifications to window locations, type and aspect and a varying and much reduced roof profiles to minimise any impact on its immediate neighbours.

2.4. The response was accompanied by revised architectural drawings.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council issued a notification of decision to grant permission subject to 5 no generally standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** in their first report recommended that further information be sought in relation to the submission of a revised design to scale back depth of the proposed first floor extension in line with the first floor depth of adjoining properties Nos 22 and 24 Dartmouth Walk. Further information was requested on the 20th November 2019.
- The **Case Planner** in their second report and having considered the further information submitted recommended that the permission be granted subject to conditions. The notification of decision to grant permission issued by Dublin City Council reflects this recommendation.

3.2.2. Other Technical Reports

- **Drainage Division** – No objection subject to conditions as outlined in the report.

3.3. Prescribed Bodies

- 3.3.1. None

3.4. Third Party Observations

- 3.5. There are 2 no observations recorded on the planning file from (1) Sinead Keane, No 22 Dartmouth Walk and (2) Michael Walsh & Desmond Crowley, No 23 Dartmouth Square. The issues raised relate to overshadowing, building footprint and roofline, materials and design, loss of privacy, oversail of boundary wall, overlooking, overdevelopment, proximity to No 23 Dartmouth Square and scale of development.

4.0 Planning History

- 4.1. There is no evidence of any previous planning application or subsequent appeal on this site.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative plan for the area is the **Dublin City Development Plan 2016-2022**. The appeal site is within a designated **Conservation Area** and immediately to the north of the Dartmouth Square and Environs Architectural Conservation Area. The site is within an area zoned **Z2** where the land use zoning objective is “*to protect and/or improve the amenities of residential conservation areas*”. Relevant Policy from Development Plan 2016-2022 are as follows:

- 5.1.2. **Policy CHC4:** *To protect the special interest and character of all Dublin’s Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.*

Enhancement opportunities may include:

- 1) *Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting*
- 2) *Re-instatement of missing architectural detail or other important features*
- 3) *Improvement of open spaces and the wider public realm, and re-instatement of historic routes and characteristic plot patterns*
- 4) *Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area*
- 5) *The repair and retention of shop- and pub-fronts of architectural interest.*

Development will not:

- 1) *Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area*

- 2) *Involve the loss of traditional, historic or important building forms, features, and detailing including roof-scapes, shop-fronts, doors, windows and other decorative detail*
- 3) *Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors*
- 4) *Harm the setting of a Conservation Area*
- 5) *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.

5.1.3. **Chapter 16, Section 16.2.2.3 Extensions and Alterations**

Dublin City Council will seek to ensure that alterations and extensions will be sensitively designed and detailed to respect the character of the existing building, its context, the amenity of adjoining occupiers and integrated with the surrounding area.

5.1.4. **Chapter 16, Section 16.10.12 Extensions and Alterations to Dwellings**

The section states that the development should integrate with the existing building in terms of form and finishes. Extensions should be subordinate in terms of scale to the main unit. Applications for planning permission to extend dwellings will only be granted where the Planning Authority is satisfied that the proposal will:

- Not have an adverse impact on the scale and character of the dwelling
- Not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, access to daylight and sunlight.

5.1.5. **Appendix 17 – Guidelines for Residential Extensions** provides general advice and design principles for residential extensions. The guidelines should be interpreted in the context of the Development Plan Core Strategy, which promotes a compact city, sustainable neighbourhoods and areas where a wide range of families can live.

5.2. **Natural Heritage Designations**

5.2.1. The site is not located within a designated Natura 2000 site.

5.3. **EIA Screening**

5.3.1. Having regard to the nature and scale of the proposed development comprising a residential extension in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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. The third-party appeal has been prepared and submitted by Armstrong Planning on behalf of Sinead Keane, No 22 Dartmouth Walk and may be summarised as follows:

6.1.2. **Breaking the Building Line** – The rear building line in the vicinity of the appeal site is clearly established at both ground floor and first floor level. Images attached. While there is scope for the appeal site to extend out at first floor level to match the established building line the proposal completely breaks the building line that would be drastically out of character with the established pattern of development in the area. The design revisions submitted by way of further information are not sufficient to address the concerns over the significant impact on the character of the area that breaking the building line will revert.

6.1.3. **Impact on Character of the Conservation Area** – The mews along Dartmouth Walk are afforded considerable protection by virtue of their Z2 zoning designation. Breaking the building line so significantly will have an unacceptable impact on the character of the Conservation Area. The proposed rearward projection is completely out of keeping with the established built context and cannot be said to successfully integrate with its surroundings. The proposal is therefore contrary to planning policy and should be refused on this basis.

- 6.1.4. **Overbearing Impact and Sense of Enclosure** – The rearward two storey extension will present a tall, oppressive blank façade right up to the boundary and directly addressing the private open space of No 24, creating an unacceptable and domineering sense of enclosure in what is already a small urban back garden. Such massing amounts to overdevelopment on a constrained site.
- 6.1.5. **Overlooking / Loss of Privacy** – The revised plans exacerbate the potential for overlooking. The L-shape form of the proposed rear extension includes two translucent sand blasted windows in the south elevation and an angled transparent window directly overlooking the rear garden space of No 22. The consequent overlooking amounts to a devastating loss of privacy for residents at No 22 Dartmouth Walk that will deleteriously and significantly affect their residential amenity.

6.2. Applicant Response

- 6.2.1. The first party response to the third-party appeal has been prepared and submitted by Vivian Cummins Architects and may be summarised as follows:
- Dartmouth Walk is not recognised as being of any special architectural, historical, archaeological, artistic, cultural, scientific, social, technical interest or value and it does not contribute to the appreciation of protected structures.
 - The generally accepted definition of building line is a line usually set with respect to the frontage of a plot of land and beyond which the owner of the land may not build or a limit beyond which a house must not extend into a street. This cannot be considered applicable to the proposed development which is located to the rear of Dartmouth Walk.
 - The proposed development is not “drastically out of character with the established patten of development in the area” due to a variation in building line to the rear of the subject site.
 - The drawings were submitted fully in accordance with the Planning and Development Regulations 2001 (as amended) and validated by the Planning Authority.
 - The applicant commissioned revised shadow studies for the proposed development as part of the further information response which indicate a limited

impact on adjoining properties at various times of the year. The front to back axes of these properties have a south south-east orientation which will ensure minimal adverse impact on the adjoining properties.

- The proposed fenestration at first floor level has been designed to respect the privacy of adjoining properties and follows best practise. There is no difference in the extent of overlooking of the rear gardens on No 22 Dartmouth Walk from the proposed windows and that of the existing overlooking of the rear garden of No 23 Dartmouth Walk from the appellants first floor windows.
- Traditionally a separation of about 22m was sought between the rear of 2-storey dwellings but this may be relaxed if it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers. The proposed development meets that objective.

6.3. Planning Authority Response

6.3.1. None

6.4. Observations

6.4.1. None

6.5. Further Responses

6.5.1. None

7.0 Assessment

8.0 Assessment

- 8.1. This assessment is based on the plans and particulars submitted to Dublin City Council on the 24th September 2019 as amended by plans and particulars submitted by way of further information on the 15th May 2020.
- 8.2. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the

key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Visual Impact
- Residential Amenity
- Appropriate Assessment
- Other Issues

8.3. Principle

- 8.3.1. The appeal site is wholly contained within an area zoned Z2 Residential Neighbourhoods (Conservation Areas) where residential extensions and alterations to an existing dwelling for residential purposes is considered a permissible use in principle.

8.4. Visual Impact

- 8.4.1. Concern is raised in the appeal with regard to the rear building line and the impact of the proposed scheme on the character of the conservation area. It is noted that while Dartmouth Walk is within a designated Conservation Area the appeal site has been excluded from the Dartmouth Square and Environs Architectural Conservation Area and is not contained within the curtilage of No 23 Dartmouth Square, a Protected Structure (RPS Ref 2169).
- 8.4.2. There are multiple policies and objectives within the Development Plan that seek to ensure the highest standards of built development are brought to fruition and that designated Conservation Areas are protected from inappropriate development. In this context Policy CHC4 requires that *development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible*. The full wording of this policy is provided in Section 5.1 above. It is noted that the policy also identifies a number of enhancement opportunities together with what a development should not do. I have considered the proposed scheme as

amended and I would set out the following with regard to the policy criteria set out in Policy CHC4:

- The rear section of the existing house to be removed is not considered to be of any particular architectural merit and does not of itself make any significant contribution to the character of the area. I am satisfied that proposal would not involve the loss of a traditional, historic or important building form, feature or detailing or any other decorative detail.
- The amended scheme is sympathetic in design and materials while also respecting the prevailing scale and architectural language of the adjoining buildings. I am satisfied that the scheme is designed so as not to constitute a visually obtrusive or dominant form of development. Further the amended scheme will not harm buildings, spaces or other features which contribute positively to the special interest of the Conservation Area.

8.4.3. With regard to the rear building line it is noted that the appeal site is an exception to the general uniformity of adjoining properties with a rear ground floor building line that extends out further than any other mews house along Dartmouth Walk but also a first floor that is set back from adjoining mews properties. I agree with the applicant that the generally accepted definition of building line is a line usually set with respect to the frontage of a plot of land or building. The proposed scheme in this case does not impact the front building line of the Dartmouth Walk. While the proposed rear extension as amended extends out further than that of the existing line at first floor level the ground floor rear building line remains as is. There is nothing unreasonable or unusual about such a rear extension. I do not consider the extension of the first floor rear building line, of itself, to be a determining factor in this case.

8.4.4. The proposed extension as amended integrates with the existing building in terms of form and finishes and is subordinate in terms of scale to the main unit and will not have an adverse impact on the scale and character of the main dwelling. I am satisfied that to permit same would not detract from the visual amenities of the Conservation Area or from the adjoining Dartmouth Square and Environs Architectural Conservation Area that includes the setting of a protected structures and in particular No 23 Dartmouth Square.

8.5. Residential Amenity

- 8.5.1. Concern raised in the appeal with regard to the impact of the proposed scheme on No 22 (overlooking) and No 24 (domineering) Dartmouth Walk is noted.
- 8.5.2. Having regard to the amended plans together with the use of translucent glass I agree with the applicant that the proposed fenestration at first floor level has been designed to respect the privacy of adjoining properties. Subject to a condition requiring that all window/windows on the first-floor rear elevation be glazed with obscure glass, similar to the rear first floor windows at No 24 Dartmouth Walk (site photos refer) I am satisfied that there will be no undue overlooking of No 22 Dartmouth Walk.
- 8.5.3. Having regard to the scale and location of the proposed extension I do not consider that the scheme would if permitted, form an unduly overbearing or dominant element when viewed from the adjoining properties along Dartmouth Walk or surrounding areas. Furthermore I am satisfied that the design, scale, form and positioning of the proposed extension as amended strikes a reasonable balance between the protection of the amenities and privacy of the adjoining dwellings, that it will not result in any significant over shadowing of adjoining properties or any unreasonable loss of natural light or overlooking to neighbouring residential properties.
- 8.5.4. Overall, I am satisfied that the amended plans will not adversely affect amenities enjoyed by the occupants of adjacent houses.

8.6. Appropriate Assessment

- 8.6.1. Having regard to the nature and scale of the development and its 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.

8.7. Other Issues

- 8.7.1. **Development Contributions** – I refer to the Dublin City Council Development Contribution Scheme 2020-2023. Section 11 outlines circumstances where no contribution or a reduced contribution apply. It is stated that the first 40sq metres of extensions to a residential development will not be required to pay development

contributions under the Scheme. The proposed development has a stated area of 21 sqm and is therefore exempt.

9.0 Recommendation

9.1. I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be **GRANTED** for the following reasons and considerations.

10.0 Reasons and Considerations

10.1. Having regard to the residential zoning of the site in the Dublin City Development Plan 2016 – 2022, the pattern of development in the area and the layout and design of the scheme, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. 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 submitted on the 15 th May 2020, 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 window/windows on the first-floor rear elevation shall be glazed with obscure glass. Details shall be agreed in writing with the Planning Authority prior to commencement of work on site.

	Reason: To prevent overlooking of adjoining residential property.
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings 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>
4.	<p>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>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>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste including any excess soil arising from the proposed excavation of the site.</p> <p>Reason: In the interests of public safety and residential amenity</p>

Mary Crowley

Senior Planning Inspector

29th October 2020