



An
Bord
Pleanála

Inspector's Report

ABP-307895-20

Development	PROTECTED STRUCTURE, PERMISSION & RETENTION: existing garden room (original register reference no. 3834/17) (a Protected Structure). Retention of additional floor area.
Location	24, Morehampton Road, Donnybrook, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2871/20
Applicant(s)	Caroline Devlin & Colm O'Sea
Type of Application	Permission and Retention
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Murray & Mary McGrath
Observer(s)	Walker & Gillian Rainey Stan & Francis Policky
Date of Site Inspection	23/10/2020, 11/11/2020 and 12/11/2020
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. The application site is on the east side of Morehampton Road, has a stated area of 525 square metres and it extends to half the depth of the distance to Morehampton Lane to the east. It is that of a Victorian terraced house at the rear of which there is a three-storey return which is paired with a similar return of relatively recent construction at the rear of the adjoining house at No 22 Morehampton Road.
- 1.1.2. At the end of the rear garden there is a garden room, (the stated floor area of which is 48.5 square metres) additions and alterations to which are subject of the application for permission for retention. There is a pedestrian entrance door in the rear wall on the eastern boundary of the site which opens onto a narrow pathway/shared right of way onto Morehampton Lane. At the end of the rear garden of the adjoining property to the north at No 22 Morehampton Road, there is a smaller scale garden room for which permission was granted under PA. Reg. Ref. 3900/17.
- 1.1.3. Mews development is located at the rear of most of the Morehampton Road houses which are setback from Morehampton Lane onto which they have vehicular access.

2.0 Proposed Development

- 2.1.1. On the 15th June 2020 planning permission was sought for the retention of 5.8sq.m. of floorspace in an existing garden room, a new roof profile with mezzanine attic store and one rooflight on each side.
- 2.1.2. The application was accompanied by a Conservation Report.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 29th July 2020, the Planning Authority issued a notification of their intention to GRANT permission subject to 8 no. conditions. Condition no.s 2 and 3 restrict the use of the garden room to incidental use and that it may not be sold, let or transferred save as part of the existing dwelling.

3.2. Planning Authority Reports

- 3.2.1. **Drainage Division:** No objection subject to standard conditions.

3.2.2. **Planning Report:** Notes that the garden room was not constructed as per the permission received (reg. ref. 3834/17) and that a split decision issued when retention permission was sought (reg. ref. 3859/18). Proposed development reduced ridge height to 5.7m and introduces a flat rather than pointed roof. Subject structure is a crude design response but would not have a negative impact on the visual and residential amenities of the area. Recommendation to grant subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. None on file.

3.4. **Third Party Observations**

3.4.1. Three objections to the proposed development raised concerns regarding the rooflights, scale, future use, servicing pipes oversailing private property and haphazard design.

4.0 **Relevant Planning History**

4.1.1. Planning Authority reg. ref. **3834/17**: Permission was granted for pitched roof / garden room to the rear.

4.1.2. **ABP-303051-18**: Planning permission was GRANTED for a change of the external finish of garden room and REFUSED for the retention of increase in floor area, increase in roof ridge height, change of pitched roof profile and opening of the attic space to create a mezzanine area.

5.0 **Policy Context**

5.1. **Dublin City Development Plan 2016-2022**

5.1.1. The subject site is located in an area zoned Z2 with an objective *'to protect and/or improve the amenities of residential conservation areas'*. The site is located at the rear of No 24 Morehampton Road which is listed as a Protected Structure (House) in Volume 3 of the plan.

5.1.2. Standards for Residential Accommodation (houses) are set out in Section 16.10.2. **Policy CHC4** provides for the protection of the special interest and character of Dublin's Conservation Areas. The policies and objectives are elaborated on in detail in section 11.1.5.4

5.1.3. Guidance and standards for extensions and alterations and on the relationship with existing residential properties are set out in Sections 16.2.2.3 and Appendix 17

5.2. **EIA Screening**

5.2.1. Having regard to nature and scale of the development and the urban 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 against the decision of the Planning Authority to grant permission was submitted by no. 27 Morehampton Lane. The grounds of the appeal can be summarised as follows:

- One of the proposed roof windows to the unauthorised mezzanine overlooks the appellants house. It will intrude on both the interior and exterior private spaces, amounting to an infringement on their amenity.
- The appellants agree with and support the Planning Authority's strict usage conditions.
- The proposed windows are of no benefit as the space is for storage only. The Board is requested to omit the roof windows as they support the inappropriate use of the space as a residential dormitory deck.
- It is submitted that the applicants have disregarded planning constraints and this should not be ignored.
- The floor area of the mezzanine is not mentioned in the statutory notices and therefore it is outside the scope of any grant.
- The Boar is requested to refuse permission on the grounds that permission was already refused for the mezzanine and the altered roof profile.

6.2. Applicant Response

6.2.1. The applicants have responded to the third-party appeal. The response can be summarised as follows:

- The appeal is not valid as the full address of the appellants has not been provided.
- The proposed rooflights are for ventilation, as there are no windows, only openable doors.
- The proposed rooflights, at 90 degrees angle to the appellants, would enhance the amenity of the protected structure without compromising the appellants amenity.
- The subject application seeks to regularise minor deviations from the permitted works.
- The works subject of the previous An Bord Pleanála refusal (roof height and profile and rear parapet) are addressed in the subject application, leaving the rear elevation exactly as permitted.
- The Board is requested to grant permission.

6.3. Observations

6.3.1. Walker & Gillian Rainey, 25 Morehampton Lane

- Refers to their previous Observation to the Board.
- No explanation for the Planning Authority deviating from their previous decision or the decision of the Board.
- Inadequate consideration of the interference with amenity of adjoining properties from the rooflights.
- The Board requested to refuse permission.

6.3.2. Stan & Francis Policky, 26-30 Morehampton Road and lands to the rear of 24 Morehampton Road

- The development as constructed appears haphazard and deviates from the approved permission.

- The previous decision of the Planning Authority and Board (3859/18 and ABP-303501-18) is clear. The subject decision to grant is therefore ambiguous.
- The red line boundary (on drawing CD.19_PA/06 and 08) is in line with the external face / stonework face of the rear wall between 24 Morehampton Road and the Observers land. The stonework is 200mm forward of the rendered wall above it. The face of the rendered wall above is the boundary wall between 24 Morehampton and the Observers land. The red line on drawing no. CD.19_PA/02 appears to be outside the external face of the stonework wall.
- The Observer notes that the stonework wall is in the Observers ownership and so the Applicant should have requested consent to make the application.
- Mechanical services (boiler flue and drainage pipe) are penetrating into the Observers lands and are unsightly and are staining the Observers wall. This injures the residential amenity of the area and thus is contrary to the zoning objective of the area. It is noted that these pipes are not indicated on the relevant drawings.
- The traditional hipped roof profile as permitted (3834/17) is more appropriate to the existing context.
- The Board is requested to refuse permission. If they decide to grant permission, the Board is requested to attach a condition to remove the encroaching pipework.

6.4. **Planning Authority Response**

- 6.4.1. None on file

7.0 **Assessment**

- 7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development including the various submissions from the applicant and the planning authority. Given the planning history on the subject site, I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development

- Impact on Visual and Residential Amenity
- Other

7.2. Principle of Development

7.2.1. The Board has addressed the principle of the garden room under ABP-303051-18. The principle of the proposed development, namely the retention of additional floor area and addition of new rooflights into an altered roof profile is acceptable.

7.3. Impact on Visual and Residential Amenity

- 7.3.1. The proposed development seeks to reinstate the flat roof section of the pitched roof, as permitted in the original application. I consider that this will reduce the bulk and mass of the garden room from the adjoining properties and is acceptable. The proposed roof change will also address the parapet wall on the north-eastern elevation, facing Morehampton Lane.
- 7.3.2. The increase in ground floor area affects the private open space of the main dwelling on Morehampton Road only and therefore is also acceptable. The increase in floor area, at 5.8sq.m. is not material.
- 7.3.3. The final works of the proposed development is the creation of a mezzanine floor with rooflights, for storage use. I note that the principle of a mezzanine floor was not objected to in the previous Inspectors report, only the impact such a floor would have on the roof profile. The floor area of the proposed mezzanine is approx. 8.8sq.m. That this floor area was not specifically mentioned in the statutory notices is not considered material as it is clearly addressed in the accompanying drawings.
- 7.3.4. The applicant requests rooflights for ventilation purposes, noting the non-openable windows on the north-western elevation. Given the stated use for storage only, the need for ventilation can be served by the double doors on the front elevation of the garden room. This would remove any possibility of overlooking of any of the adjoining properties.
- 7.3.5. Should the Board decide to grant permission, a condition restricting the use of the garden room for purposes ancillary to the main dwelling and not for human habitation should be attached.

7.4. Other

- 7.4.1. The applicant has indicated their intention to regularise the encroachment of the mechanical services into the adjoining site. This will be a welcome improvement of the rear elevation.

7.5. Appropriate Assessment

- 7.6. Having regard to the nature and scale of the proposed and existing development in a fully serviced built-up urban area, no appropriate assessment issues arise and it is considered that 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.

8.0 Recommendation

- 8.1. I recommend permission and permission to retain be GRANTED for the following reasons and considerations and subject to the following conditions:

9.0 Reasons and Considerations

- 9.1.1. Having regard to the Z2 zoning objective for the area which seeks to 'to protect and/or improve the amenities of residential conservation areas' in the Dublin City Development Plan 2016-2022 and to the nature and scale of the proposed and existing development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the character or setting of the existing house, adjoining dwellings in the terrace or the mews dwellings on the adjoining lane and would not seriously injure the residential amenities of the area. 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 retained in accordance with the plans and particulars lodged with the application, 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
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	<p>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>The proposed rooflights on the north-eastern and north-western elevations of the roof shall be omitted.</p> <p>Reason: In the interest of protecting the residential amenity of adjoining properties.</p>

Gillian Kane

Senior Planning Inspector

16 November 2020