



An  
Bord  
Pleanála

## Inspector's Report ABP309740-21

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<b>Development</b>	Single storey extension to rear, first floor extension to front and alteration to front elevation, attic conversion with alteration to roof and amended vehicle/pedestrian access.
<b>Location</b>	33 Waterloo Lane, Ballsbridge, Dublin 4.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3993/20
<b>Applicant(s)</b>	Aidan O'Brien
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Dublin City Council.
<b>Type of Appeal</b>	First v Condition 2 Third Party V Grant
<b>Appellant(s)</b>	1. Aidan O'Brien 2. Michael Nesbit & Others
<b>Observer(s)</b>	James Burke.
<b>Date of Site Inspection</b>	15 <sup>th</sup> May 2021
<b>Inspector</b>	Hugh Mannion

## 1.0 Site Location and Description

1.1. The application site has a stated area of 224m<sup>2</sup> and comprises a two storey terraced mews house with a front yard and rear garden at 33 Waterloo Lane, Ballsbridge, Dublin 4. The front yard is accessed through separate vehicular and pedestrian gates and accommodates a car parking space. The adjoining houses have slightly higher roof ridge heights. All the sites on this (east) side of the lane have been developed and it appears that most have been alienated from the original main houses which face onto Waterloo Road. Waterloo Lane is remarkably wide for a mews lane and did not appear during my site inspection to have particular parking/traffic issues.

## 2.0 Proposed Development

2.1. The proposed development comprises (1) a single storey extension to rear, (2) first floor extension to front and alteration to front elevation, (3) attic conversion with alteration to roof and (4) amended vehicle/pedestrian access at 33 Waterloo Lane, Ballsbridge, Dublin 4.

## 3.0 Planning Authority Decision

3.1. **Decision - Grant permission with conditions.**

Condition 2 required the submission of revised plans to be agreed with the planning authority to (a) replace the proposed flat roof on the attic with a pitched roof and (b) the attic space shall be used for non-habitable uses only.

### 3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report recommended a grant of permission as set out in the manager's order.

3.2.2. Other Technical Reports

3.2.3. Transport Planning Division reported no objections to the proposed development.

3.2.4. Drainage Engineering Division recommended a grant of permission subject to conditions.

## 4.0 Planning History

4.1. Planning register reference 5947/07 granted permission for amendments to an existing building to provide for a two-storey mews house on this site.

## 5.0 Policy and Context

### 5.1. Development Plan

5.2. The Dublin City Development Plan 2016-2022 is the relevant Development Plan for the area. The site is zoned Residential Neighbourhoods (Conservation Areas) Z2. The objective *“To protect and or improve the amenities of residential conservation areas.”*

5.3. Section 16.2.2.3 states that residential alterations and extensions should.

- Respect any existing uniformity of the street, together with significant patterns, rhythms or groupings of buildings
- Retain a significant proportion of the garden space, yard or other enclosure
- Not result in the loss of, obscure, or otherwise detract from, architectural features which contribute to the quality of the existing building
- Retain characteristic townscape spaces or gaps between buildings
- Not involve the infilling, enclosure or harmful alteration of front lightwells.
- Be confined to the rear in most cases
- Be clearly subordinate to the existing building in scale and design
- Incorporate a high standard of thermal performance and appropriate sustainable design features.

5.4. Section 16.10.12 states that extensions will be granted only where the planning authority is satisfied that the development 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.

5.5. Appendix 17 adds that domestic extensions should

- 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.
- Achieve a high quality of design.

5.6. Policy in relation to Conservation Areas 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 should not;

- Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area
- Involve the loss of traditional, historic or important building forms, features, and detailing including roofscapes, shop-fronts, doors, windows and other decorative detail

- Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors
- 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

### 5.7. **Natural Heritage Designations**

Not relevant

### 5.8. **EIA Screening**

5.9. Having regard to the location of the site is an area zoned for residential development and the availability of public piped services to serve the proposed development I conclude that no significant environmental impacts will arise and the requirement for the submission of an EIAR may be discounted at a preliminary stage.

## 6.0 **The Appeal**

### 6.1. **Grounds of Applicant's Appeal**

- The site is zoned Residential Neighbourhoods (Conservation Areas) Z2. The objective "To protect and or improve the amenities of residential conservation areas."
- The application seeks to improve the residential accommodation on site and complies with development plan policy in relation to domestic extensions.

- The flat roof is designed to keep the roof line below the adjoining roofs of 31 and 35 Waterloo Lane.
- There is a variety of building lines, designs, roof treatments and parapet heights in the area.
- The windows above the void areas are to meet the Building Regulations Technical Guidance Documents in relation to escape and rescue.
- Two options are submitted with the application. Option 1 replaces the flat roof with a pitched roof and windows. Option 2 retains the flat roof and inserts a window in the front elevation to give light to the new attic room.
- The planning authority has unreasonably confined its consideration to the original planning permission on site under register reference 5947/07.

## **6.2. Third Party's Grounds of Appeal**

- The appellants own 33 Waterloo Road which is a protected structure.
- The application documents (drawings and public notice) are inaccurate. The separation distance between the application site and the appellants' property is not shown.
- There is no attic in the house to be converted.
- The development plan (16.10.16(c)) requires that mews development be generally confined to two storey units whereas the application provides for a 3 storey house.
- The proposed development will overlook the rear of 33 Waterloo Road as the 22m separation distance is not achievable.
- The proposed development breaks the building line of other developments on Waterloo Lane.

## **6.3. Applicant Response**

- None

#### 6.4. **Planning Authority Response**

- No response.

#### 6.5. **Observations**

- The proposed development will negatively impact on protected structures in the area and in particular on the privacy of 33 Waterloo Road. The area of 35 Waterloo Road will be only 17.5m from the completed development.
- Condition number 2 avoids the necessity to allow third parties comment on proposed development.
- The application drawings are inadequate.
- The application breaks the building line on Waterloo Lane.

#### 6.6. **Further Responses**

The third party commented on the applicant's appeal as follows.

- Permission should be refused as set out in the original appeal.
- The options set out in the appeal do not overcome the appellants' concerns. The negative impacts on 33 Waterloo Road remain.
- The drawings are inaccurate, and the public notice is misleading.
- The proposed attic room does not meet the building regulations standards for habitable room floor to ceiling heights.
- Apartment guidelines are not relevant in this case.

### 7.0 **Assessment**

7.1. There are four elements of the application which I distinguish and assess below.

#### 7.2. **Amended entrances/Gates.**

7.3. The application site comprises a mews lane house on Waterloo Lane, Ballsbridge, Dublin 4. There is an existing screen wall onto the lane with separate vehicular and

pedestrian gates. It is proposed to reverse the order of these entrances left/right and replace the gates. These amendments to the boundary along Waterloo Lane are uncontroversial and I recommend a grant of permission in relation to this aspect of the application.

**7.4. Single Storey Rear Extension.**

7.5. There is an existing porch to the rear at ground floor level and it is proposed to this with a new single storey living room. The rear garden will retain a depth of between 9.2m and 8.7m for an overall area of about 55m<sup>2</sup>. The depth accords with the Development Plan standards (7.5m) and the quantum of remaining private garden is sufficient to meet the private open space needs of residents. This single storey extension does not have the capacity to seriously injure the amenity of adjoining property through overshadowing or overlooking.

7.6. I recommend a grant of permission in relation to this aspect of the proposed development.

**7.7. Extension to the front.**

7.8. There is an existing single storey projection at ground floor level incorporated into the kitchen with a first-floor balcony accessible from a first-floor bedroom. It is proposed to infill that space at first floor and incorporate it into the first-floor front bedroom. At attic level there is a front facing hipped roof with a narrow vertical window and a roof window on the roof plane. The appellant makes the point that the drawings are inaccurate in relation to this narrow window.

7.9. The net point here is that this roof light and the narrow window on the hipped part of the roof face onto the grounds of an institutional use (the Dublin Institute of Advanced Studies) and I conclude on that basis that they will not seriously injure the residential amenity of adjoining property. In relation to the design aspects of the proposal it is noteworthy that there is significant variety of parapet levels and roof design in Waterloo Lane and I conclude that the proposal will not be out of character in this context.

**7.10. Development within the Attic Space.**

7.11. It is proposed to insert a new room within the attic space. There are two new roof lights proposed on the rear roof plane; the one on the right serves a bathroom, that



on the left serves the new room. The appeal and observations lodged with the Board makes the point that these roof windows have the capacity to overlook the rear gardens of the houses facing onto Waterloo Road (in particular number 33). The City Development Plan generally requires a separation distance of 22m between rear facing first floor windows. Taking into account the rear garden depth, the intervening ground floor extension and the rear attic windows location on the roof I estimate the distance from these windows to application site's rear boundary to be about 14.5m. Notwithstanding the additional height of these windows over the first floor rear facing windows and having regard to their serving a room and bathroom which are not occupied on a full time basis I conclude that these windows are acceptable and will not seriously injure the residential amenity of property in the vicinity.

- 7.12. The applicant in his appeal offers an amended Option 1 which redesigns the proposed development as per the planning authority's condition 1(a). This would require raising the ridge height substantially above the roof ridge heights of adjoining houses. I consider that this option would not contribute to the residential amenity of adjoining property and I recommend against this option. *Inter alia* option 2 provides opaque glass in the rear facing roof lights. I consider that this may be made the subject of a compliance condition (condition 2 in the draft order below).
- 7.13. Having regard to the foregoing I recommend that condition 1(a) imposed by the planning authority be omitted by the Board as set out in the draft below.
- 7.14. The planning authority imposes condition 1(b) which states that the attic space should not be used as a habitable room. The Development Management Guidelines makes the point that conditions attached to a planning permission should not require to matters that are covered by a separate code which imposes responsibilities on applicants for permission. In the present case the applicant has responsibility to meet the building regulations in relation to habitable room standards. I recommend that condition 1(b) not be included in the Board's order as set out in the draft order below.

### 7.15. **Appropriate Assessment Screening**

7.16. Having regard to the nature and scale of the proposed development, the foreseeable emissions therefrom, and nature of the receiving environment, I am satisfied that 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**

8.1. I recommend a grant of planning permission.

## 9.0 **Reasons and Considerations**

9.1. The proposed development is in an area zoned to protect, provide for and improve residential amenity Dublin City Development Plan 2016-2022. Having regard to the pattern of development in the area, the relatively modest scale of the proposed development and subject to compliance with the conditions set out below, it is considered that the proposed development will not seriously injure the visual or residential amenity of the area, will accord with the zoning objective for the area and will, otherwise, accord with the proper planning and sustainable development of the area.

## 10.0 **Conditions**

1.	<p>The development shall be carried out and completed 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 prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
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2.	<p>The windows on the rear plane of the roof shall be permanently glazed in opaque glass.</p> <p><b>Reason:</b> in the interests of residential amenity.</p>
3.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwelling, including window and door joinery and the vehicular and pedestrian gates shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</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><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<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, 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><b>Reason:</b> 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.</p>
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Hugh Mannion  
Senior Planning Inspector

17<sup>th</sup> May 2021