



An  
Bord  
Pleanála

## Inspector's Report ABP-310032-21.

### Development

Construction of external access steps from ground level to first-storey roof and the installation of external metal spiral from the first storey to the second-storey roof.

### Location

742 South Circular Road, Kilmainham, Dublin.

### Planning Authority

Dublin City Council

### Planning Authority Reg. Ref.

WEB1510/19

### Applicant(s)

Anthony Sheehy

### Type of Application

Permission

### Planning Authority Decision

Refuse permission

### Type of Appeal

First

### Appellant(s)

Anthony Sweeney

### Observer(s)

Rory Murphy

### Date of Site Inspection

04/06/2021

### Inspector

Patricia Calleary

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## **1.0 Site Location and Description**

- 1.1. The appeal site, with a stated area of 401 sq.m, comprises an end of terrace two-storey dwelling, which fronts onto the eastern side of South Circular Road, opposite Kilmainham Gaol Museum and Courthouse in Dublin 8. The dwelling is a red-brick two-bay two-storey building with a recent extension added to the side and rear noted to be at an advanced stage of construction. The house on the appeal site is one of six similar house-types that are collectively known as St. John's Terrace, and it directly adjoins house No. 744 to the north. As extended on foot of a previous planning permission, the house measures c.248 sq.m in gross floor area (GFA).
- 1.2. The extension is largely two-storey in scale, transitioning to a single storey element where it adjoins the neighbouring property (No. 744) side boundary. The single-storey and two-storey elements have flat roof structures. Text included on the drawings indicates an 'intensive green roof' covering over both elements.
- 1.3. Pedestrian access to the property is from the front (west) along South Circular Road. The subject row of six terraced houses is surrounded by mature trees and hedgerows to the south, east and northern sides and the surrounding ground slopes steeply away towards the River Camac, c.10m to the south of the site. Carrickfoyle Terrace, an established residential area comprising single-storey terraced houses is located to the east/southeast of the appeal site, accessed from Lady's Lane, and there are two commercial premises, a takeaway and a restaurant, to the south of the terraced row of houses.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the provision of an external concrete stairs at the rear of the property leading from ground level to the first-floor flat-roof element and an external metal spiral staircase at the side of the property providing continued access from the first-floor level to the flat roof over the two-storey extension. It is also proposed to raise the wall of the existing single-storey extension that adjoins the neighbouring property, no.744, by providing a 700mm high parapet, to an overall height of 3.9m above ground.

- 2.2. It is stated that the stairs development would provide access for maintenance to the green flat roofs of the permitted extension.

### 3.0 Planning Authority Decision

#### 3.1. Decision

- 3.1.1. The Planning Authority issued a decision to **refuse permission** for the proposed development as they considered it would be overbearing on adjoining residential amenities and would set an undesirable precedent for similar substandard development in the area.

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

The recommendation within the report of the Planning Officer (February 2021) reflects the decision of the Planning Authority to refuse permission.

##### 3.2.2. Other Technical Reports

- **Drainage Division Engineering Department:** no objection, subject to the developer complying with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.
- **Transportation Planning:** No response
- **City Archaeologist:** No response

##### 3.2.3. Prescribed Bodies

The file was referred to Irish Water and Irish Rail. No responses were received.

#### 3.3. Third-Party Observations

During consideration of the application by the Planning Authority, observations were received from neighbouring residents in the terrace row (no.s 744,746,748,750 and 752), objecting to the development. Concerns raised include the following:

- the external staircases would lead to the creation of accessible roof terraces resulting in overlooking of adjoining properties;

- neighbouring residents have already experienced a reduction in sunlight and daylight to their properties;
- the proposal represents overdevelopment of the site;
- neighbouring properties would experience a loss of residential amenity by virtue of loss of privacy and increased overlooking;
- the proposal would increase the height of the extensions constructed on site;
- the proposal would have a negative visual impact on the character of the area.

## 4.0 Planning History

- **Dublin City Council (WEB1510/19):** Planning permission was granted (November 2019) for the refurbishment of the existing house. Works included replacement of the roof, windows and doors, demolition of the existing outbuildings at the rear of the property and the construction of a two-storey rear and side extension (approximately 118 sq.m).

## 5.0 Policy and Context

### 5.1. Development Plan

5.1.1. The provisions of the **Dublin City Development Plan 2016-2022** apply. The appeal site is located within an area that has a Land Use Zoning Objective Z2: Residential Neighbourhoods (Conservation Areas) with a description 'to protect and/or improve the amenities of residential conservation areas'.

5.1.2. Relevant policies/provisions include:

**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.

**Chapter 14, 14.8.2 Residential Neighbourhoods (Conservation Areas – Zone Z2):** Residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale. The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.

#### **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.

#### **Chapter 16, Section 16.10.12 Extensions and Alterations to Dwellings**

The design of residential extensions should have regard to the amenities of adjoining properties and in particular the need for light and privacy. In addition, the form of the existing building should be followed as closely as possible, and the development should integrate with the existing building through the use of similar finishes and windows. 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

**Appendix 17 – Guidelines for Residential Extensions** provides general advice and design principles for residential extensions.

#### **Natural Heritage Designations**

- none in the vicinity

## **5.2. Environmental Impact Assessment - Preliminary Examination**

- 5.2.1. Having regard to the nature and scale of the proposed development in an established 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 grounds of this first-party appeal can be summarised as follows:
- The only difference between the subject application and the previous application is the introduction of a stepped access, the erection of a prefabricated external spiral staircase and an increase of the single-storey wall parapet by 700mm.
  - The proposed use of the roof space as intensive green roof remains unchanged.
  - The occupation and maintenance requirements for the roofs remain unchanged.
  - Without access, maintenance of the green roofs would become less safe.
  - Suggests acceptance of limiting the height of the first-floor parapet wall, if necessary.

### **6.2. Planning Authority Response**

- none received

### **6.3. Observations**

- 6.3.1. An observation was received from Rory Murphy, with an address at no.744 South Circular Road which is a property directly adjacent to the appeal house and site. The main points raised are:

- Alterations to the development have been carried out including raising the wall height on both extensions to provide a parapet without the benefit of planning permission.
- The proposed development may function as a roof terrace (without the benefit of planning permission).
- Development would result in overlooking and loss of privacy for no.744.
- No analysis of impacts on sunlight and daylight have been provided.
- The development would render the rear of no.742 overbearing when viewed from neighbouring rear gardens and from the principal rooms to the rear of no.744 South Circular Road.
- Refers to the three types of roof set out in a policy guidance paper entitled: **Green Roofs Over Dublin (2008)**<sup>1</sup>, including **intensive green roofs**, **semi-intensive green roofs** and **extensive green roofs** and states that extensive green roofs require less maintenance and would be more suitable than the intensive green roof previously proposed.
- States that while no roof terrace is indicated on the drawings of the current or previous application, it would be difficult to prevent such use through enforcement.

## 7.0 Assessment

### 7.1. Introduction and context

- 7.1.1. This is a first-party appeal against a refusal to grant permission for development comprising an external stair structure leading from ground-floor level to second-floor level at the side and rear of an extended property. The extensions, as previously permitted by Dublin City Council (**Planning Ref: WEB1510/19**), include the following text on the drawings (roof): '**intensive green-roof system**'.
- 7.1.2. What is essentially proposed under the **current application** is to provide a fixed access to the extension roofs via a concrete stairs leading from the ground onto the

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<sup>1</sup> **Green Roofs Over Dublin** (A green roof policy guidance paper for Dublin) – Erik van Lennep and Sinéad Finn, Tepui, Dublin.



single-storey flat-roof element and a spiral stairs continuing vertically to the roof over the two-storey extension. It is stated that the stairs are required to provide access for 'occupation and maintenance requirements' of the 'intensive green roofs'. During the consideration of the application by the planning authority, third parties from all of the remaining houses in the terrace, raised concerns about the stairs being obtrusive and that it would lead to the creation of accessible roof terraces resulting in overlooking of the adjoining residential properties. One observation was received on the appeal, from the neighbouring property owner, no.744, in which concerns are raised regarding negative impacts on his residential amenity.

7.1.3. The appellant does not expand on the stated 'occupation' requirement, and neither is there any detail on the maintenance requirements for the roofs set out in the application documentation or the grounds of appeal. Nonetheless, I am aware that intensive green roofs by their nature require more maintenance than extensive roof systems for reasons of a deeper soil and larger plants used. The observer refers to a document, 'Green Roofs Over Dublin (2008)'. I note that document is not referred to in any statutory document, including the Dublin City Development plan, however, it is of note for providing information on the different types of green roofs. As set out in the Green Roofs Over Dublin document, these include (i) **intensive green roof**; (ii) **semi-intensive green roof** and (iii) **extensive green roofs**. It is submitted by the observer that extensive green roofs would be most suitable in the context of a domestic extension giving an example of a lightweight sedum roof. It is stated (and I have also checked) that the aforementioned document describes intensive green roof as *'An intensive roof provides the amenities that a normal ground level park or private garden would offer. Due to the depth of substrate, there is no limit to the plants that can be grown, from trees down to perennials and grasses. Structures such as seating, pergolas and pagodas can be incorporated and hard landscaping in the form of paths can be included'*. It is part of the observers case, that while the applicant may consider that permission has been granted for a roof garden, this is not the case by reference to condition no.1 attached to the grant of permission (DCC Reg. Ref WEB1510/19) and that there was no reference to roof gardens in the planning application.

7.1.4. It is worth clarifying that the development that is the subject of the appeal is for the stairs and modifications to the single storey extension to raise the walls by creating a

700mm parapet, evidently to act as a protective edge to the first-floor stairs landing. The 'intensive green roofs' on both the single-storey and two-storey element were the subject matter of the previous application and it is a matter for the developer to implement that permission. Where there is a dispute as regards same, parties and the planning authority have recourse to planning enforcement provisions, a process in which An Bord Pleanála have no role. In relation to the appeal now before the Board against the external stairs proposal, the substantive issues that arise and require consideration are whether the proposed development would impact unduly on the character of the area having regard to the 'Z2' zoning objective and if any unacceptable impacts would arise on adjoining amenities. I have considered these together under the heading of Character and Amenities in my assessment below.

## **7.2. Character and Amenities**

- 7.2.1. The dwellinghouse on site is one of six houses, also known as St. Johns Terrace, located within a residential conservation area and with a 'Z2' zoning objective, as set out in the Dublin City Development Plan 2016-2022 for the area. The zoning objective seeks to 'protect and/or improve the amenities of residential conservation areas'. Residential conservation areas are considered to have an attractive quality of architectural design and scale. The development plan policy requires special care to be taken in assessing development proposals that affect structures in such areas. The general objective for such areas is to protect them from works that would have a negative impact on the amenity or architectural quality of the area.
- 7.2.2. The added extension as previously permitted, is primarily a two-storey flat-roof structure, transitioning to a single-storey element (3.2m high), also with a flat roof for a width of 2.2m along the boundary with the adjoining property, no.744 to the north. The addition of the stairs development now proposed, specifically the metal spiral stairs spanning vertically from first floor to roof level, would introduce an obtrusive design feature that would be out of character with the host house and the existing houses in this residential conservation area. It would break the existing orderly architectural rhythm that exists along the rear of the properties. While it would not be overly visible from the public realm or other neighbouring properties to the east/southeast in Carrickfoyle Terrace due to the established mature trees along the River Camac, it would not be sympathetic to the design of the host house and

houses in the historic terrace and would detract from the special interest and character of the area. Accordingly, it would be contrary to the current City Development policy for 'Z2' conservation areas and would set an undesirable precedent for similar development in the vicinity.

- 7.2.3. The spiral stairs element, because of its location spanning vertically from first-floor roof level to second-floor roof level, would also be visually obtrusive and injurious to adjoining properties in the terrace, in particular the adjoining property at No.744, where it would be visible from and would also facilitate overlooking onto the rear private amenity space and first floor windows of no.744 when in use.
- 7.2.4. There is no substantive residential amenity issue arising from the concrete stairs element which leads from ground floor to first floor, as it is concealed for the most part behind a concrete wall structure intended as part of the proposed development, and it would not be overly dominant. It would not detract from the amenities of the area, nor would it cause overlooking issues. However, the concrete stairs element is part of the overall design now before the Board and it would not serve any real function if permitted without the spiral stairs at the level above. In relation to the 700mm parapet addition to the single storey extension, I note the appellant's willingness to forgo this element, however, while its omission would remove an interruption in the design, and address issues of negative residential and visual amenity from that element, such an omission would not address the main concerns with the overall design response which is not considered acceptable for reasons outlined above.
- 7.2.5. While it is acknowledged that the 'intensive roof system' requires maintenance and therefore access, it would appear that when it was originally applied for under DCC Reg Ref: WEB1510/19, a different access arrangement was envisaged as no fixed stairs was proposed. The observer highlights **Condition no.1** attached to that grant of permission, which sets out 'For the avoidance of doubt, this permission **shall not be construed as approving any development shown on the plans, particulars and specifications, the nature and extent of which has not been adequately stated in the statutory public notices**'. This is a relevant matter mainly for the developer, however, it is also of relevance to the Board to note the lack of certainty around what type of roof was permitted, for which the stairs access is now proposed.

- 7.2.6. The current stairs proposal is unacceptable for reasons outlined above and I recommend that the Board refuse permission accordingly.

## 8.0 **Appropriate Assessment**

- 8.1. Having regard to the limited nature of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the 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**

- 9.1. I recommend that planning permission for the development should be **refused** for reasons and considerations that are set out below.

## 10.0 **Reasons and Considerations**

1. Having regard to the nature and scale of the proposed development and the location of the site within an area zoned for Z2 - Residential Neighbourhoods (Conservation Areas), as set out in the Dublin City Development Plan 2016 – 2022, with a corresponding objective 'To protect and/or improve the amenities of residential conservation areas' it is considered that, the proposed development would detract from the special interest and character of the residential conservation area and would set an undesirable precedent for similar development in the vicinity. The spiral stairs structure, by virtue of its location, would also be visually obtrusive and injurious to the residential amenities of adjoining properties, including adjoining property No.744 where it would be visible from and result in overlooking onto the rear private amenity space and first floor windows when in use. The proposed development would not, therefore, be in accordance with the proper planning and sustainable development of the area.

*Patricia Calleary.*

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Patricia Calleary

Senior Planning Inspector

12<sup>th</sup> June 2021