



An
Bord
Pleanála

Inspector's Report

ABP-313549-22

Development	PROTECTED STRUCTURE Modification to (Ref. 3991/20) installation solar panels and all associated ancillary works.
Location	17, Terenure Road East, Rathgar, Dublin 6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3308/22
Applicant(s)	Paschal Naylor & Rossa Martin
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First v Condition
Appellant(s)	Paschal Naylor & Rossa Martin
Observer(s)	None on file
Date of Site Inspection	13 September 2022
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject dwelling is located on the southern side of Terenure Road East, which runs from Rathgar to Terenure in south Dublin.
- 1.1.2. Currently on site is a three-storey mid-terrace Protected Structure which on the date of my site visit was undergoing extensive refurbishment and renovation. The dwelling is bound to the east and west by similar properties. The front and rear gardens of the dwelling are heavily landscaped.
- 1.1.3. To the rear (south) of the dwelling is a residential cul-de-sac of two storey dwellings known as Rathgar Park. Further south is the Rathgar Tennis Club.

2.0 Proposed Development

- 2.1.1. On the 18th February 2022 planning permission was sought for the installation of 21sq.m. of solar panels to the faces of both pitches of the double A roof of a protected structure.
- 2.1.2. The application was accompanied by a Planning and Conservation Impact Report.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 14th April 2022 the Planning Authority issued a notification of their intention to GRANT permission subject to 4 no. conditions. Condition no. 3 states:

3 Prior to the commencement of development, the applicant shall submit revised plans for the written approval of the Planning Authority - a) PV panels are permitted to the inner slopes of the roof of the Protected Structure only. The proposed solar panels along the outer rear pitch of the roof shall be omitted and relocated to the inner slope. b) All new slates to the outer slopes of the roof shall be blue Bangor slates. The natural slates to the inner slopes shall be a Del Carmen natural slate. Reason: To protect the character and integrity of this protected structure.

3.2. Planning Authority Reports

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

- 3.2.2. **Archaeology, Conservation & Heritage:** the introduction of solar panels on the outer slopes of Protected Structures can cause serious injury to the special character and presentation of the Protected Structure. Notes that panels will not be visible but states that the rear is considered to be of significance in itself and all effort must be made to protect its original and historic character. Applicant should be invited to place solar panels on the new flat roofed extension. All new slates shall be blue Bangor slates.
- 3.2.3. **Planning Report:** Notes the report of the conservation officer and recommend a condition be attached that omits the solar panels from the rear roofslope.

3.3. **Prescribed Bodies**

- 3.3.1. None on file

3.4. **Third Party Observations**

- 3.4.1. None on file.

4.0 **Planning History**

- 4.1.1. Planning Authority reg. ref. **3991/20:** Planning permission was GRANTED for the construction of a single storey extension, reconstruction of rear garden wall and enlargement of existing opes to the rear.
- 4.1.2. Planning Authority

5.0 **Policy Context**

- 5.1. **Architectural Heritage Protection – Guidelines for Planning Authorities**
 - 5.1.1. This guidance, which is a material consideration in the determination of applications, sets out comprehensive guidance for development in conservation areas and affecting protected structures. It promotes the principal of minimum intervention (Para.7.7.1) and emphasises that additions and other interventions to protected structures should be sympathetic to the earlier structure and of quality in themselves and should not cause damage to the fabric of the structure, whether in the long or short term (7.2.2).

- 5.1.2. Regarding roofs, **section 4.12.3** of the Guidelines refers to changes to the exterior appearance of walls, roofs or openings. The section states that works that would materially alter the character of the exterior of a building may include the following:
- b) roofs: works that would result in damage to, or removal of, original or early surviving chimneys; damage or removal of natural slate roofcovering; replacement of existing structural elements, rainwater goods, coping stones, gable or eaves parapets; addition of fascia boards or boxing in of eaves; removal or reconstruction of features such as bell-cotes, crenellations, finials or any other feature of the roofscape; the fitting or removal of rooflights;

5.2. Dublin City Development Plan 2016-2022

- 5.2.1. 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 subject dwelling is listed as a Protected Structure (House) in Volume 3 of the plan. RPS ref. no. 8068

- 5.2.2. Policies of note in the development plan include:

CHC1: It is the Policy of Dublin City Council to seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

CHC2: To ensure that the special interest of protected structures is protected Development will conserve and enhance Protected Structures and their curtilage and will:

- (a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest (b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances (c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials (d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure (e) Protect architectural items of interest from damage or theft while buildings are empty or during course of works (f) Have regard to ecological considerations for example,

protection of species such as bats. Changes of use of protected structures, which will have no detrimental impact on the special interest and are compatible with their future long-term conservation, will be promoted.

- 5.2.3. **Policy CHC4** seeks 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. Reinstatement of missing architectural detail or other important features.
3. Improvement of open spaces and the wider public realm, and reinstatement 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 building 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 roofscapes, shopfronts, doors, windows and other decorative detail.
3. Introduce design details and materials such as PVC, aluminium and inappropriate designed or dimensioned timber windows and doors.
4. Harm the setting of the conservation area.
5. Constitute a visually obtrusive or dominant form.

- 5.2.4. Appendix 24 of the development plan refers to Protected Structures and Conservation Areas

5.3. **Natural Heritage Designations**

5.3.1. The site is located c. 4.5 km from the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024).

5.4. **EIA Screening**

5.4.1. Having regard to nature of the development comprising redevelopment of an existing dwelling 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. An agent for the applicant has appealed condition no. 3(a) of the Planning Authority's decision to grant. The grounds of the appeal can be summarised as follows:

- A north facing solar panel is not efficient or effective. Condition no. 3(a) has omitted over half the panels for the house and the potential to create renewable energy.
- The panels will be behind the parapet on the rear façade so the character and integrity of the Protected Structure will not be affected.
- The extensive mature screening in the garden mean the visual impact will be trivial.
- The Planning Authority decision is in contravention of the Governments action towards a carbon neutral economy and objective CCO9 of the development plan.
- The implication is that the 8000 Protected Structure in Dublin City cannot have visible solar panels. This is extraordinary given that the subject panels will be only partly visible from a few dwellings on Rathgar Park.
- This is an opportunity for Protected Structure to embrace the latest technology.

- Permission was granted (Planning Authority reg. ref. 3788/21) for solar panels on the rear pitch of the original roof of St Philips Paraochial Hall Dartry. As with the subject site, the panels will only be visible from the neighbouring houses to the rear.
- The proposed development should be encouraged.

6.2. **Planning Authority Response**

6.2.1. 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. Section 139 of the Planning and Development Act 2000- 2016 provides that where an appeal is made to the Board against only conditions of a permission and where the Board is satisfied that a de novo assessment of the appeal is not required, that the Board may issue a direction to the Planning Authority relating to the attachment, amendment or removal of the condition.

7.1.2. In the case of the current appeal against condition no. 3(a) only, I am satisfied that the appeal accords with the criteria of section 139 and therefore I restrict my assessment of the appeal to condition no. 3(a) only.

7.2. **Condition no. 3**

7.2.1. Compliance with condition no. 3(a) requires the omission of the proposed solar panels on the south-facing rear elevation of the second pitched roof and their replacement on the north-facing inner slope of the pitched roof.

7.2.2. The applicant submits that north-facing solar panels are ineffective and this condition would reduce the renewable energy created by the panels by half. The applicant submits that due to the location of the dwelling, the parapet on the roof and the screening in the rear garden, that the visual impact of the proposed panels would be minimal.

- 7.2.3. I note that the conservation officer of Dublin City Council recommended that the panels be placed on the flat roof of the new single storey extension (ref. 3991/20 refers) but this recommendation did not form part of the Planning Authority decision.
- 7.2.4. The Architectural Heritage Guidelines being from 2011 do not refer to solar panels or renewable energy systems. They do however, refer to the cumulative impact of small changes, noting that while minor in isolation, the overall impact can be harmful to the special character of the Protected Structure.
- 7.2.5. The proposed development retains the roof profile and structure and compliance with part (b) of condition no. 3 will ensure that appropriate roofing materials are used. I note that the Conservation officer and the planning officer do not object to the use of panels on the first of the pitches. The structural implications of the panels are therefore not at issue, only the visual impact.
- 7.2.6. As noted by the appellant the rear roof is largely hidden from view. The separation distance and the parapet mean the roof is not visible from the dwellings on Rathgar Park. The roof is however visible from the laneway leading from Terenure Road to Rathgar Park. On the date of my site visit, the roof appeared to have new tiles and so stood in contrast to its terraced neighbours who retain the original roof coverings. The roof however retains the primary characteristics (profile, chimney, double pitch) that create uniformity along the terrace. It is considered that the introduction of solar panels will not materially alter this view. Particularly given that the view of the roof is so limited.
- 7.2.7. The advantages to be gained from increasing the energy efficiency of the dwelling and to ensuring the dwelling remains in habitable use far outweigh the limited visual impact. I am satisfied that the proposed development complies with objective CC3 of the development plan which seeks to promote energy efficiency, energy conservation, and the increased use of renewable energy in existing and new developments but also policy CHC2 which seeks to ensure that the special interest of protected structures is protected.
- 7.2.8. It is considered that amendment required by condition no. 3(a) would be made with no appreciable gain to the visual amenity of the Protected Structure but with significant disadvantage to the subject dwelling. I am satisfied that the proposed

development is acceptable in terms of visual impact and is in compliance with the development plan. I recommend that condition no. 3 be amended to omit section (a)

7.3. **Appropriate Assessment**

- 7.3.1. Having regard to the nature and scale of the proposed development to be retained 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**

- 8.1.1. Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to **AMEND** condition number 3 as follows:

9.0 **Reasons and Considerations**

Having regard to the nature and scale of the proposed development and to the pattern of development in the area, it is considered that the imposition of condition number 3(a) is unnecessary and the amendment of this condition would not contravene the provisions, as set out in the current Development Plan for the area and would not set a precedent.

- 3 All new slates to the outer slopes of the roof shall be blue Bangor slates. The natural slates to the inner slopes shall be a Del Carmen natural slate.

Reason: To protect the character and integrity of this protected structure.

Gillian Kane
Senior Planning Inspector

16 September 2022