



An  
Bord  
Pleanála

## Inspector's Report ABP-314017-22

### Development

Demolition of the remaining walls of a single-storey, semi-detached workshop building and the construction of a two storey, semi-detached house with a roof terrace at second floor level to the front of the property and all associated works.

### Location

Charles Lane, to the rear of 30,  
Fitzgibbon Street, Dublin 1

### Planning Authority

Dublin City Council

### Planning Authority Reg. Ref.

4189/21

### Applicant(s)

Conservation Assets Ltd.

### Type of Application

Permission

### Planning Authority Decision

Refuse

### Type of Appeal

First Party

### Appellant(s)

Conservation Assets Ltd.

### Observer(s)

An Garda Siochana

**Date of Site Inspection**

December 06<sup>th</sup>, 2022

**Inspector**

Lorraine Dockery

## 1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of approximately 77 square metres, fronts onto Charles Lane, which is a vehicular and pedestrian laneway linking Fitzgibbon Street with Great Charles Street. The site is situated to the rear of an existing two-storey over basement house fronting Fitzgibbon Street at the corner of Charles Lane, which is shown as being in the ownership of the applicant.
- 1.2. The overall lands bound properties currently in use by Fitzgibbon Street Garda station.

## 2.0 Proposed Development

- 2.1. Permission is sought for the demolition of the remaining walls of a single-storey, semi-detached workshop building and the construction of a two storey house with a roof terrace at second floor level to the front of the property and all associated works.
- 2.2. The proposed dwelling has a stated floor area of 96m<sup>2</sup>.
- 2.3. The development is proposed in the rear garden of the existing property.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority REFUSED permission for one reason as follows:

1. The site was originally part of the rear garden of No. 30 Fitzgibbon Street which is in residential use. The proposed development would result in the permanent loss of private amenity space to the existing house at No. 30, whether in multiple occupancy or in the event of the house being reconverted to use as a single dwelling unit. Having regard to the lack of separation from the existing house, the proposal could also result in an overbearing impact when viewed from the existing house, with loss of light and aspect. The proposed development, in itself and in the precedent it would set, would therefore, seriously injure the amenities of property in the vicinity and be contrary to the proper planning and sustainable development of the area

Further Information was requested by the planning authority in relation to details of existing use of No. 30 Fitzgibbon Street, together with enhanced measures to prevent overlooking of the Garda station which adjoins the site, which may include omission of proposed roof terrace or provision of enhanced screening measures.

## 3.2. **Planning Authority Reports**

### 3.2.1. Planning Reports

The main points of the planner's report include:

- Having regard to the nature and scale of the proposed development, the established pattern of development in the area and the zoning provisions of the current Development Plan, it is considered that the proposed development does not accord with the City Development Plan or with the proper planning and sustainable development of the area.
- Recommends refusal of permission

### 3.2.2. Other Technical Reports

Drainage Division- no objections, subject to conditions

## 4.0 **Prescribed Bodies**

### Transport Infrastructure Ireland

The proposed development falls within the area for an adopted Section 49 Supplementary Development Contribution Scheme - Luas Cross City (St. Stephen's Green to Broombridge Line) under S.49 Planning and Development Act 2000, as amended. Recommends that if application is successful and is not exempt, a condition to apply the Section 49 Luas Line Levy be attached to any such grant

## 5.0 **Planning History**

None

## 6.0 Policy and Context

### 6.1. Development Plan

The Dublin City Development Plan 2022-2028 is the operative City Development Plan.

Zoning- 'Objective Z1' which seeks 'to protect, provide and improve residential amenities'.

Section 15.13.4 Backland Housing

Section 15.13.5 Mews

### 6.2. Natural Heritage Designations

The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

### 6.3. EIA Screening

Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest sensitive location, 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.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

The main points of the first party appeal are:

- Proposal presents no undue impacts on the rear amenity space of No. 30 Fitzgibbon Street as the lands the subject of the appeal were previously in use as a workshop
- Proposal considered to be consistent with pattern and scale of development in the immediate and wider area- not present as overbearing in scale
- Impact on daylight/sunlight access to existing amenity space is considered to be unperceivable
- Developments of similar nature and scale evident in close proximity- examples cited
- Appropriate use of brownfield and infill site within Dublin city centre in accordance with the proper planning and sustainable development of the area- cites national guidance.

## 7.2. **Planning Authority Response**

None

## 7.3. **Observations**

An observation was received from An Garda Siochana, Fitzgibbon St Garda station (signed Inspector Jim Clavin). In summary, the observation raises concerns in relation to impact of the proposal on victim interview suites and rest areas for victims. It explains that Fitzgibbon St Garda station differs from every other station in the country as it does not have cells or deal with the detention of prisoners. It is victims and community based and is central to policing response in Dublin's north inner city to victims of serious crime including domestic abuse, sexual and gangland crime. Concerns expressed regarding impacts on privacy for victims using areas, in particular outdoor courtyard area. Needs to be a secure space free from intimidation and interference. Search and security take place in courtyard. Windows and roof terrace give a direct line of sight and hearing into the courtyard, together with space for potential intimidation of victims and access. Proposal will interfere with valuable service this amenity provides and no longer make it fully accessible or an area where

the local community can be at ease. Loss of privacy and security for Gardaí working in station.

Concerns regarding previous unauthorised development, construction noise if permitted and boundary matters.

#### 7.4. **Further Responses**

None

### 8.0 **Assessment**

8.1. I have read all the documentation attached to this file including inter alia, the appeal, the report of the Planning Authority and the observation received, in addition to having visited the site.

8.2. I highlight to the Board that a new City Development Plan has been adopted, since the decision of the planning authority issued.

8.3. As stated above, the planning authority refused permission for the proposed development for one no. reason. I would echo the concerns expressed by the planning authority in this regard. I note that the site was originally part of the rear garden of No. 30 Fitzgibbon Street which is in residential use. Notwithstanding the case put forward by the first party that the location of the proposed dwelling has not been in use as private open space for in excess of 13 years, I concur with the opinion of the planning authority that the proposed development would result in the permanent loss of private amenity space to the existing house at No. 30, whether in multiple occupancy or in the event of the house being reconverted to use as a single dwelling unit. A provision of 13m<sup>2</sup> of private open space is considered wholly inadequate to cater for occupants of this multi-occupancy dwelling. Currently there is potential for this area to be converted back to amenity space, but if permission for a dwelling was granted on it, this potential would be lost.

8.4. I note the inadequate separation distances proposed between the proposed dwelling and that existing. I concur with the opinion of the planning authority that having regard to the lack of separation from the existing house, the proposal could also result in an overbearing impact when viewed from the existing house, with loss of

light and aspect. The proposed development, in itself and in the precedent it would set, would therefore, seriously injure the amenities of property in the vicinity and be contrary to the proper planning and sustainable development of the area. The first party appeal submissions cites examples of where permission has been granted for mews development in the wider areas. I consider that many of the examples cited have different context/circumstances to that the subject of this current appeal.

8.5. Noting the contents of the observations received, I acknowledge the amendments made to the proposal at Further Information stage by the applicants. I am of the opinion that if the Board is disposed towards a grant of permission, that this matter could be adequately dealt with by means of condition.

8.6. Matter of enforcement and boundary issues are outside the remit of this current appeal.

8.7. Section 15.13.4 of the operative City Development Plan sets a generally favourable policy towards development of backland sites, subject to compliance with normal planning criteria. To conclude, I consider the proposal not to be in compliance with this section of the operative City Development Plan. In addition, I consider that the proposed development is not in accordance with the zoning objective of the City Development Plan, which seeks 'to protect provide and improve residential amenities' and is not in accordance with the proper planning and sustainable development of the area.

## 9.0 **Appropriate Assessment Screening**

9.1 Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## 10.0 **Recommendation**

10.1. I recommend permission be REFUSED



## 11.0 Reasons and Considerations

1. The site was originally part of the rear garden area of No. 30 Fitzgibbon Street, which is in residential use. The proposed development would result in the permanent loss of private amenity space to the existing house at No. 30, whether in multiple occupancy or in the event of the house being reconverted to use as a single dwelling unit. Having regard to the lack of separation from the existing house, the proposal could also result in an overbearing impact when viewed from the existing house, with loss of light and aspect. The proposed development, in itself and in the precedent it would set, would therefore, seriously injure the amenities of property in the vicinity and be contrary to the proper planning and sustainable development of the area

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Lorraine Dockery  
Senior Planning Inspector

14<sup>th</sup> December 2022