



An
Bord
Pleanála

Inspector's Report 316340-23

Development

PROTECTED STRUCTURE,
construction of a two-storey, detached
structure at end of back garden of
existing dwelling for use as a
residential garage for car parking at
ground floor and artist's studio at 1st
floor, associated works, drainage and
solar panels at roof level of dwelling.

Location

116 St. Lawrence Road, Clontarf, D 3.

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

31561/23

Applicant(s)

Paul Geraghty

Type of Application

Permission

Planning Authority Decision

Grant permission

Type of Appeal

Thirds Party v. Grant

Appellant(s)

Ray Hanley & Deirdre Markey

Observer(s)

None

Date of Site Inspection

25th June 2023

Inspector

Suzanne Kehely

1.0 Site Location and Description

- 1.1. The subject site with a stated area of 373.7 m² relates to a mid-terraced two storey house on the eastern side of St. Lawrence Road in, Clontarf, Dublin 3. It is in a mature residential conservation area and the house dates from c.1880 and is a Protected Structure. The site is deep and narrow extending c.52 m depth and c. 7m in width. The rear of the site fronts onto a lane which serves as rear pedestrian/vehicular access for many dwellings along St. Lawrence Road and also serves a few houses on Stiles Road. The lane has multiple access points from the surrounding road network and some garages /boundary wall have been stepped back but for the most part it is just over 4m in width and not suitable for passing cars. The site has a pedestrian door and separate vehicular entrance onto this lane. They are set into a simple angular rendered block frame.
- 1.2. The dwelling has been extended to the rear and has a 19.75m deep garden enclosed by concrete walls.
- 1.3. The adjoining dwelling to the south at 117 No. St. Lawrence Road has a timber double gate and small shed fronting the lane, whereas No. 115 St. Lawrence Road (the appellant's home) to the north has a gable fronted garage with its pitched roof gable fronting the lane alongside a rendered wall with pedestrian access.
- 1.4. There is a slight rise in the level of the lane in a northerly direction. The vehicular entrance has been constructed at the higher level so that ground rises from the lane. There is a small ramp.
- 1.5. Photographs of my inspection are appended. The appellants also submitted photographs of views of the site from their garden. The conservation report shows street and lane elevations and also aerial views of other parts of the of the lane.

2.0 Proposed Development

- 2.1. The proposed development consists primarily of construction of a two-storey detached structure at the end of the garden to provide a ground floor garage for off-street parking for 2 cars and first floor accommodation described as an artist's studio. The structure has a footprint of 36sq.m and extends the width of the site while extending up to 8m deep at ground level . It reduces to a depth of 6.8m at first floor

level and is also stepped back just over 1m from the northern boundary at this level.

Design elements include:

- Ridge height of 6.2m (14.81m OD)
- a gable ended asymmetrical pitched roof with gable ends fronting the garden and lane and the slopes facing the neighbouring gardens.
- Studio access is proposed via an external staircase from the garden . The entrance door is therefore at first floor level and is glazed as part of an extensive glazed elevation.
- Roof materials are dark painted metal cladding with raised seams extending down the sides covering the entire roof/first floor.
- The larger southern roof slope has 6 pv electric solar panels.
- The northern elevation includes a proprietary powerwall solar battery storage panel. An opaque glazed vertical window is also proposed in the northern elevation c 1.175m from the boundary with a cil height of over 3m above ground.
- The western lane frontage includes a widened vehicular entrance (removing the pedestrian gate) and irregular shaped 1st floor window with an angled top aligning with the slope of the roof. It is shown as opaque.
- Ancillary works/drainage

2.2. The application is accompanied by an Architectural Heritage Impact Assessment prepared by Dr. Jason Bolton. The report concludes that if the construction is carried out to a high standard of craftsmanship and design it should have a negligible impact on the special architectural heritage value of the protected structure.

2.3. A cover letter explains the use of the studio being for the applicant /family and not being for commercial use or use as a separate dwelling.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Notification of the Decision to **Grant Permission** subject to 11 no. conditions issued on 29th March 2023.

- **Condition no. 3** requires revisions – omission of **northern ope** or raising of height, the **western elevation** glazing at first floor shall be **opaque** – **supplementary rooflights** permitted. The development shall not be used for human habitation unless it complies with current building regulations.
- All other conditions are generally standard in nature.

3.2. **Planning Authority Reports**

3.2.1. **Planning Report:** The executive planner considered that the issues arising from the design, scale and use of the proposed structure and impacts on neighbouring property had not been adequately addressed in the application and further information was deemed appropriate. The Senior Executive Planner considered these issues and noted the acceptable level of overshadowing by reference to BR209 2022 and subsequently took the approach that the outstanding matters could be addressed by condition and that the proposed development would not seriously injure residential amenities.

3.2.2. **Other Technical Reports**

Conservation Officer: no written report.

Drainage Division: (7/3/23) No objection subject to condition.

Transportation Planning Division: (16/3/23) Flags development plan policy for 1 off street space and exceedance of this. Otherwise no objection subject to conditions.

3.3. **Prescribed Bodies**

Irish Water: None received.

3.4. **Third Party Observations**

3.4.1. Issues as raised in grounds of appeal with photographs and montages.

4.0 **Planning History**

4.1. **Relevant Planning History for the site and adjacent site.**

4.1.1. **Planning Authority Reg. Ref. 3998/20:** Planning permission granted April 2021 for re-pointing of façade at subject site.

- 4.1.2. **ABP ref 242767 (Planning Authority Reg. Ref. 2719/13):** Planning permission granted April 2014 change of use from 4 units to single family home and 2 storey extension and associated works at subject site. Conditions amended on appeal. (Order attached)
- 4.1.3. **Planning Authority Reg. Ref. 2226/21:** Planning permission granted on 10th September 2021 for development including a loft conversion and new dormer window to the rear of No. 117 St. Lawrence Road, Clontarf, Dublin 3. The scale of the proposed dormer window was reduced in response to a Request for Further Information which noted concerns that the structure would cause serious injury to the form and roof profile of the historic terrace.

5.0 Policy Context

5.1. Dublin City Development Plan 2022-2028

Zoning:

- 5.1.1. The site is subject to land use zoning “**Z2**” **Residential Neighbourhoods (Conservation Areas)** which has the objective “to protect and/or improve the amenities of residential conservation areas”. The existing property is a **Protected Structure** (RPS Ref. 7693).

Conservation Areas:

- 5.1.2. Section 14.7.2 describes these Z2 areas as ‘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. Chapters 11: Built Heritage and Archaeology, and Chapter 15: Development Standards, detail the policies and objectives for residential conservation areas and standards, respectively.’
- 5.1.3. Chapter 11 - Z2 conservation areas: Whilst these areas do not have a statutory basis in the same manner as protected structures or ACAs, they are recognised as areas

that have conservation merit and importance and warrant protection through zoning and policy application The special interest/value of Conservation Areas lies in the historic and architectural interest and the design and scale of these areas. Therefore, all of these areas require special care in terms of development proposals. The City Council will encourage development which enhances the setting and character of Conservation Areas.

- 5.2. Conservation Areas: To protect the special interest and character of all Dublin's Conservation Areas – identified under Z8 and Z2 zoning objectives and denoted by red line conservation hatching on the zoning maps. 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 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. 6. Retention of buildings and features that contribute to the overall character and integrity of the Conservation Area. 7. The return of buildings to residential use.

Protected Structures

- 5.2.1. Interventions to Protected Structures should be to the minimum necessary and all new works will be expected to relate sensitively to the architectural detail, scale, proportions and design of the original structure.
- 5.2.2. **Development of Protected Structures: BHA2** - 'That development will conserve and enhance protected structures and their curtilage and will: (a) Ensure that any development proposals to protected structures, their curtilage and setting shall have regard to the Architectural Heritage Protection Guidelines for Planning Authorities (2011) published by the Department of Culture, Heritage and the Gaeltacht. (b) Protect structures included on the RPS from any works that would negatively impact their special character and appearance. (c) Ensure that works are carried out in line

with best conservation practice as advised by a suitably qualified person with expertise in architectural conservation. (d) Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials. (c) Ensure that the form and structural integrity of the protected structure is retained in any redevelopment and ensure that new development does not adversely impact the curtilage or the special character of the protected structure. (d) Respect the historic fabric and the special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials. (e) Ensure that new and adapted uses are compatible with the architectural character and special interest(s) of the protected structure. (f) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features....’

- 5.2.3. **Upgrading Environmental Performance: BHA22:** ‘To ensure a sustainable future for historic and other buildings subject to heritage protection, the City Council will encourage and support works to upgrade the environmental performance of the existing building stock that incorporates good standards of design and appearance. Where these works involve historic buildings subject to protection (this includes buildings referenced on the Record of Protected Structures and non-protected structures in an Architectural Conservation Area), the works shall not adversely affect the special interest of the structure and thus a sensitive approach will be required, ...’
- 5.2.4. **Car Parking:** The site is located in zone 2 of Map J of the CDP. Existing and Future Strategic Transport and Parking Areas refers to 1 no. car parking space per dwelling.
- 5.2.5. **Development Standards: Alterations and Extensions:** Section 15.11.4 refers to separation distances (Houses). At the rear of dwellings, there should be **adequate separation between opposing first floor windows**. Traditionally, a separation of about 22 m was sought between the rear first floor windows of 2-storey dwellings but this may be relaxed if it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers. Careful positioning and detailed design of opposing windows can prevent overlooking with

shorter back-to-back distances and windows serving halls and landings which do not require the same degree of privacy as habitable rooms.

5.2.6. **Mews/backland:** Section 15.13.4 sets out criteria for mews dwellings/backland housing to the rear of existing housing with an independent vehicular access. Consideration of access and servicing and the interrelationship between overlooking, privacy, aspect and daylight / sunlight are stated paramount to the success and acceptability of new development in backland conditions. Where there is potential to provide backland development at more than one site/property in a particular area, the Planning Authority will seek to encourage the amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development, this should be discussed at pre-planning stage. Appendix 5 provides further details on vehicular access. While the application is not for mews house as it is a structure to the rear some of the following considerations are relevant:

- Compliance with relevant residential design standards in relation to unit size, room size, private open space etc.
- Provision of adequate separation distances to ensure privacy is maintained and overlooking is minimised.
- That safe and secure access for car parking and service and maintenance vehicles is provided.
- The scale, form and massing of the existing properties and interrelationship with the proposed backland development.
- The impacts on either the amenity of the existing properties in terms of daylight, sunlight, visual impact etc. or on the amenity obtained with the unit itself.
- The materials and finishes proposed with regard to existing character of the area.
- A proposed backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.
- A relaxation in rear garden length, may be acceptable once sufficient open space provided to serve the proposed dwelling and the applicant can demonstrate that the proposed backland dwelling will not impact negatively on adjoining residential amenity.

Section 15.13.5.2 refers to Height, Scale and Massing of mews buildings. New buildings should complement the character of both the mews lane and main building

with regard to scale, massing, height, building depth, roof treatment and materials. The height of mews building should not negatively impact on the views from the main property. Development will generally be confined to two-storey buildings. In certain circumstances, three-storey mews developments incorporating apartments will be acceptable, where the proposed mews building:

- is **subordinate** in height and scale to the main building;
- is maintaining the established height of existing mews roof ridgelines;
- has an acceptable level of open space and where the laneway is suitable for resulting traffic conditions;
- has sufficiently sized apartment units in line with the relevant Section 28 guidelines.

Roofs: The roof profile for mews buildings should be simple and in keeping with the character of the area. The following roofs are suitable: flat green or low-pitch metal roofs and double pitch.

- 5.2.7. Appendix 17 sets out development management guidance for residential extensions. Appendix 24 deals with Protected Structures and Buildings in Conservation Areas.

5.3. **Architectural Heritage Protection Guidelines (2011)**

- 5.3.1. Section 3.7 refers to development control in ACAs. Where the rear of buildings have been subject to periodic redevelopment and are no longer of special interest the objectives of the ACA may apply only to the frontage. Section 13.4.4 of the Guidelines note that, in relation to alterations to boundary features that the cumulative effect on the character of the street or area of a series of incremental changes may not be acceptable.

5.4. **Natural Heritage Designations**

- 5.4.1. Not relevant.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third party appeal has been lodged by Joan McElligott, Architect on behalf of the neighbouring residents at no.115 and is based on the following grounds. :

- Environment and character of Protected Structure: the proposed development would have a negative impact and would impact on the character of the houses in the area contrary to the zoning objective.
- Planning precedence: the lane is only 4.1m wide and the proposed development would result in increased conflict with pedestrian and vehicles.
- Overlooking and Loss of amenity for owners of no. 115.
- The structure provides for habitable accommodation yet does not comply with 22m separation distances – there would only be 11.66m separation distance and the 22m should only be relaxed where amenities are protected.
- The external stair access will cause direct overlooking of no.115 where the boundary is c.1.9m above ground.
- The structure is 3m deeper than the single storey garage with the height and depth having an overbearing impact – exacerbated by the orientation and seriously impact on precious amenity space.
- The proposal is out of scale with other garages.
- The painted metal finish is austere and out of character.
- The ground level proposed is lower than the lane.

6.2. Planning Authority Response

6.2.1. None received.

6.3. Observations

6.3.1. None.

7.0 Assessment

7.1. Issues

- 7.1.1. A third-party appeal has been lodged by Joan McElligott, architect on behalf of the owners and residents of the neighbouring dwelling to the north at no. 115 against the Decision to Grant Permission for a two-storey structure in the rear garden. On review of the file and grounds of appeal, I consider the issues relate to principle of development, architectural character, residential amenity, and traffic safety.

7.2. Principle of Development

- 7.2.1. The proposal for a domestic garage structure with ancillary artist's studio at the end of the garden of a Protected structure in a Z2 conservation area is I consider generally acceptable in principle. I say this in the context of the nature of the structure being for ancillary residential use to the main dwelling on site and to the extensive number of garage and shed structures fronting the access lane. I note the properties along the eastern side of St Lawrence Road have garages or just vehicular access and the character of the lane is very much ancillary in nature to the primary residential use of the dwelling houses along St. Lawrence Road and to a lesser extent along Stiles Road, as these dwelling have less interactive lane frontage.
- 7.2.2. I also note that houses are on deep and narrow sites, and, being protected individually and as a conservation zone, are more constrained than usual for extended accommodation. I also note that the site has vehicular access from the lane and so the issue relates to the scale, design and massing of the structure rather than the principle of vehicular access. I note however that the Transportation Planning division flags a restriction on parking in the area whereby only one-off street space is permitted. In this case, a roller gate vehicular entrance and separate pedestrian gate have already been constructed to provide for off street parking. This is further addressed under the traffic heading as it relates to the nature and extent rather than principle.
- 7.2.3. I further note that while the area is a conservation area – its architectural character is derived primarily from the house and street form and not by any original mews lane

feature. Accordingly I see little issue with the principle of a garage structure to the rear.

7.3. **Architectural heritage**

7.3.1. Notwithstanding the rear lane frontage, the location of the proposed development in a Z2 conservation area demands a high standard of design that is sensitive to its setting. The Architectural Heritage Protection Guidelines also refer to the cumulative effect on the character of the street. In this regard there is an indirect benefit of using the proposed rear structure for solar panels which provides an alternative to the house roof. I accept that the lane frontage and character lacks any notable intrinsic original features or fabric of architectural interest on the western side – the plot scale and terraced housing scale, form and streetscape being the key features. I note from the history file that consideration was given to changing the status from protected structures to ACA although this is not reflected in the current development plan but does suggest the nature of architectural interest. While noting the Z2 zoning I consider the criteria relating to mews development is more instructive in appraising the appropriateness of the two-storey -garage, albeit not a separate dwelling. Section 15.13.4 and sections 15.13.5.2 for example refer to consideration of interrelationship between overlooking, privacy aspect and daylight/sunlight as well as scale, massing, height, building depth and principle of subordination and maintaining established height and a simple roof profile.

7.3.2. In this case the applicant seeks to build a significantly larger scaled structure in the rear garden than is typical to the gardens in the area. I note some exceptions to this some distance to the south and do not consider this overrides the merits of the case. The absence of any defined original mews character does however I accept permit a level of design freedom. The issue more relates to the proximity and interrelationship with neighbouring dwellings. Accordingly I consider the issue more appropriately rests on the impact on neighbouring amenities.

7.4. **Residential amenity**

7.4.1. **Impact on privacy:** The appellant is concerned about the proposed first floor external access at an excessive height and close distance from the rear elevation of their house and that its use as a sole access means of access to the studio would give rise to overlooking.

7.4.2. I note the proposal incorporates a two-storey structure to provide some 30 sq.m. of floor space at first floor level for an artist's studio. The west elevation includes extensive glazing at first floor level directly facing the rear of applicant's residents at a distance of less than 12m and while this not an issue for the applicant, it would also have quite direct views in the direction of the neighbouring properties on each side. Having regard to the pattern of development and relationship with adjacent properties I consider this to be quite intrusive. The potential impact on privacy is further exacerbated by the elevated and external access arrangements. The placement of the battery on the northern elevation also at first floor level and access to same along the flat roof is an additional source of intrusion. I note that the planning authority report acknowledges the potential for overlooking by reason of the proposed windows at first floor level and rather than seek a revised design the senior executive planner addressed the matter of privacy by omitting or altering the side window and requiring extensive opaque glazing in the western elevation and possible replacement with rooflights as per condition 2 of its decision. I do not consider this to fully address the issues. This does not address the external access arrangements. There are also issues relating to the illumination from such an extensive area of glazing in close proximity and issues generally of scale and massing having an unduly overbearing impact. Having regard to its scale and location I do not consider a redesign by condition to be appropriate.

7.5. **Scale and Massing:** The proposed structure with a ridge height of 6.198m (14.81mOD) and substantially spanning the width of the site and extending in the order of 8m in depth is considerably larger in scale and massing as compared to the sheds and garages in immediate neighbouring dwellings. I note the drawings which show the comparative ground levels. Taking account of the higher level at no.115, the drawings illustrate a relative roof height of c. 2.5m at the northern boundary as measured from the neighbours garden and rising to 4.3m at first floor eaves height and finally rising to c. 5.7m at ridge height as measured above the neighbouring ground. The ground on the site is proposed to be dropped by up to 500mm. The levels in some respects mitigate the visual obtrusiveness, however the 4.3m stepped height to 5.7m height will be over a distance of 2m forward of the neighbouring shed. The residual garden depth at less than 12m makes this two-storey structure quite visible from adjacent properties. I consider the appellant raises reasonable

concerns about the height and scale along the boundary and its overbearing impact which is aggravated by the site orientation- the subject site being south of the neighbouring appellant.

- 7.5.1. While I do not consider the provision of some attic space in this garage structure in principle to be at issue and particular where the roof has been designed to avail of pv solar sourced energy, I consider the scale, massing and design are out of character with the area. While I accept that the lane frontage does not have strong intrinsic architectural value other than the collective scale, I consider a more modestly scaled structure would be more in keeping with character by way of protecting residential amenities.
- 7.5.2. I do not consider the overall scale can be reasonably justified by a need for parking 2 cars in a fully enclosed space to simultaneously charge cars. I say this having regard to the development plan policy regarding sustainable modes of travel and the location of the site in an area where only one car space is policy as referred to in the transportation planning report on this case and where there is already street parking. As an ancillary structure in a residential conservation area, I consider the scale and massing to be excessive and unwarranted.
- 7.5.3. If the Board is of mind to grant permission I would at the very least consider internalising the stairway and first floor access and replacing the west elevation glazing with a single modestly scaled high level window. I would also consider reducing the depth.

7.6. **Traffic**

- 7.6.1. The appellants raise concerns about conflict with pedestrian and vehicular traffic on a narrow lane. I do not consider the proposal to have any material impact in this regard as there is already provision for off street parking off the lane onto the site, and I do not see how the proposal would necessarily intensify traffic. I also note the character of the lane in that it has numerous vehicular access points, and it also has multiple points of entry. I would not consider it an important pedestrian route given the alternative footpaths for very similar routes – it has, it would appear, primarily a utilitarian pedestrian use for access for dwellings and is unlikely to develop as key amenity route. I do not consider there to be any reasonable grounds for refusal in this regard.

7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and scale of the proposed development, comprising a domestic garage/studio in a rear garden and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

- 8.1. I recommend that the Planning Authority be directed to refuse permission for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the residential land use zoning of the site, the nature and scale of the proposed development and the pattern of development on neighbouring sites, it is considered that the proposed development by reason scale and massing and a design with extensive high level glazing and external first floor access in the western elevation would be overbearing, obtrusive and intrusive and would therefore seriously injury the residential amenities of properties in the vicinity and would accordingly be contrary to the current Dublin City Council development plan (2022-2028) objective for Z2 Residential Neighbourhoods (Conservation Areas) “to protect and/or improve the amenities of residential conservation areas”. The proposed development would not therefore be in accordance with the proper planning and sustainable development of the area.

Suzanne Kehely
Senior Planning Inspector

3rd July 2023