



An
Bord
Pleanála

Inspector's Report

ABP-316848-23

Development	Protected Structure: Construction of extension with internal and external alterations with all associated site works
Location	Mews at Little Fitzwilliam Place to the rear of 33, Baggot Street Lower, Dublin 2
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4707/22
Applicant(s)	Carrol Estates Dublin Ltd.
Type of Application	Planning Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party Appeal
Appellant(s)	Tatoria Ltd
Observer(s)	None
Date of Site Inspection	17 th June 2023
Inspector	Susan Clarke

1.0 Site Location and Description

1.1. The site, measuring 284 sqm, is located on Little Fitzwilliam Place, to the rear of No. 33 Baggot Street, in Dublin city centre. The site forms part of a mews terrace, to the rear of a unified terrace of 18th century Protected Structures fronting onto Baggot Street. Whilst the historical footprint of the mews structure was retained, the structure (41 sq m) itself is stated to be a mid-20th century development. Vehicular access to the rear of No. 33 is provided via an undercroft area in the mews structure. Both No. 33 (a designated Protected Structure, Ref. 357) and the subject mews structure are stated to be in use as offices. The area located between the main building (No. 33) and the subject mews is in use as car parking. Similarly, the premises both sides of the subject site (Nos. 32 and 34 Baggot Street) are in commercial use.

2.0 Proposed Development

2.1.1. The proposed development consists of:

- Reinstatement of the original ridge height (from 18.01m to 18.35m) with new natural slate finish and provision of rooflights.
- Revisions to elevations including new opes and external joinery.
- Replacement of existing cement render and replacement with new lime render.
- Construction of first floor cantilevered single extension (9.4 sq m) to the rear to incorporate WC facilities and a winter garden balcony.
- Internal alterations to include new access stairs at ground floor and reorganisation of first floor office area.

2.1.2. Following a Request for Further Information (RFI), issued on 17th October 2022, the following key amendments were made to the proposal:

- The proposed glass roof to the winter garden was omitted and replaced with new slate,
- The proposed render finish to the southern elevation of the mews (proposed WC facilities) at first floor level was replaced with zinc cladding.

- Granite effect paving stone and planting were proposed to the rear of the mews and under the undercroft area.

Whilst not illustrated on the drawings, the RFI Response (dated March 2023) states that a timber slatted privacy screen will separate the mews at Nos. 32 and 33 Baggot Street.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council issued a Notification of Decision to Grant Permission on 5th April 2023 subject to nine standard conditions.

3.2. Planning Authority Reports

- 3.2.1. **Planning Reports** (17th October 2022 and 5th April 2023)

The initial report notes the Conservation Officer's request to omit the winter garden balcony at first floor level and that the proposed first floor single storey extension incorporate the WC facilities. The Planner states that a simpler more restrained design would be more appropriate to both the scale and setting of the mews structure and that of the wider mews terrace. The Officer recommended that Further Information be sought requesting a) the omission of the first floor level extension and relocation of the WC to ground floor level, and b) consider the inclusion of an alternative design to the proposed rear (south facing) elevation.

Following the RFI, the Planning Officer considered that the additional floor space was acceptable and welcomed the reinstatement of the slate roof and windows on the elevation fronting onto the laneway. It was recommended that permission be granted in accordance with the conditions attached to the Notification of Decision to Grant.

- 3.2.2. Other Technical Reports

Conservation Division (4th October 2022): No objection subject to condition, including the omission of the first floor level extension.

Drainage Division (9th September 2022): No objection subject to condition.

3.3. Prescribed Bodies

- TII (27th September 2022): Request that should permission be granted a Section 49 levy should be applied.
- Irish Water: No comments received.
- NTA: No comments received.
- The Heritage Council: No comments received.
- An Taisce: No comments received.
- Failte Ireland: No comments received.
- An Chomhairle Ealaion: No comments received.
- Department of Housing and Local Government: No comments received.

3.4. Third Party Observations

- 3.4.1. One Third-Party Observation from Tatoria Ltd was received by the Local Authority opposing the development. The key points raised are similar to those raised in the Third-Party Appeal, which are summarised in Section 6.0 below.

4.0 Planning History

- 4.1. No applications identified relating to the subject site.

5.0 Policy Context

5.1. Dublin City Development Plan 2022-2028

- 5.1.1. Map E of the Development Plan illustrates that the subject site and the abutting mews are zoned Z1 (Sustainable Residential Neighbourhoods), which aims *To protect, provide and improve residential amenities*. No. 33 and the abutting terrace of Protected Structures fronting Baggot Street are zoned Z8 'Georgian Conservation Areas' which aims: *To protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective*. 'Office' is listed as an Open for Consideration use under Z1.

- 5.1.2. Section 16.6 (Transitional Zone Areas) states inter alia: “*While zoning objectives and development management standards indicate the different uses permitted in each zone, it is important to avoid abrupt transitions in scale and land-use between zones. In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones.*”
- 5.1.3. The subject site is located in a conservation area.
- 5.1.4. Chapter 11 of the Development Plan relates to Built Heritage and Archaeology.
- 5.1.5. Section 15.13.5 addresses Mews development and highlights that the relationship between the historic main house and its mews structure remains a relevant consideration for architectural heritage protection.
- 5.1.6. Policy BHA14 states: *To promote the redevelopment and regeneration of mews lanes, including those in the north and south Georgian core, for sensitively designed, appropriately scaled, infill residential development, that restores historic fabric where possible, and that removes inappropriate backland car parking areas.*
- 5.1.7. Policy BHA2¹ (Development of Protected Structures) states:

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

¹ I note that the lettering of the various sections of this Policy are mislabelled in the Development Plan.

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.

(g) Ensure historic landscapes, gardens and trees (in good condition) associated with protected structures are protected from inappropriate development.

(h) Have regard to ecological considerations for example, protection of species such as bats.

5.2. Natural Heritage Designations

5.2.1. The site is not located within or close to any European site.

5.3. EIA Screening

5.3.1. Having regard to the modest nature of the development comprising of a minor extension (9.4 sq m) and elevational alterations on a site area of c.284 sq m located within a city centre environment, it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can therefore be excluded by way of preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A Third-Party Appeal was submitted to An Bord Pleanála on 2nd May 2023 by Tatoria Ltd (No. 34 Baggot Street Lower) opposing the Local Authority's decision. The grounds of appeal can be summarised as follows:

- Noise disturbance generated by construction works from the proposed development would have a serious negative financial impact on the long-established sound and video post-production business at No. 34.
- While the sound studios have been acoustically treated in No. 34, they would be vulnerable to airborne noise, in addition to noise transmission through the building's structure. No. 34 contains rooms used for client presentations that require acoustic privacy in order to function.
- The party wall to the mews of No. 33 consists of a single layer of brick and as such would provide little barrier to construction noise created by works in the mews next door.
- There is a significant risk that the mews to the rear of No. 34 would not be usable during the construction period.
- The proposed first floor cantilevered winter garden and bathroom will be highly visible from the reception area as they rise above the garden wall and will have a negative impact on the amenity and privacy of No. 34.
- The Applicant has not submitted sufficient information to assess the impact of the proposal on the character of the Protected Structure within the site of No. 33 and also the impact on next door at No. 34, also a Protected Structure.
- The Applicant has not provided any details regarding new structural works that will be required as part of the proposal. These works are of concern due to their potential for creating significant noise, dust and vibration.
- The Applicant has not addressed the points of concern raised by the planning authority in their FI request.
- The proposal has an unsympathetic design and massing.

- Request that the Board refuses permission for the proposed development.

6.2. Applicant Response

No response received.

6.3. Planning Authority Response

- 6.3.1. The Local Authority advised the Board on 30th May 2023 that it had no further comments on the proposed development and requested that should the Board uphold the Local Authority's decision that conditions be attached requiring the payment of Section 48 and Section 49 financial contributions.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

- 7.1. Having examined the application details and all other documentation on file, inspection of the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are: 1) construction impacts on No. 34; 2) impacts on No. 33, a designated Protected Structure; and 3) failure to provide an adequate RFI response.

7.2. Construction Impacts

- 7.2.1. The Appellant argues that the construction of the proposed development would have an adverse impact on the operation of the sound and video post-production business operating on the adjacent site at No. 34 Baggot Street. Whilst I acknowledge these concerns and the long-established nature of the neighbouring commercial premises, I consider that any construction disturbance impacts on adjoining properties, including No. 34, will be only temporary and are inevitable and unavoidable aspects associated

with urban development. Notwithstanding the acknowledged sensitivity of No. 34, Policy BHA 14 promotes the redevelopment and regeneration of mews lanes. There is an accepted need to facilitate the redevelopment of central/accessible sites like this, irrespective of their size.

- 7.2.2. I note the concerns in relation to the level of detail provided on the drawings. However, I highlight that it is standard practice for more detailed versions of these plans and construction drawings to be submitted and agreed with the Local Authority prior to the commencement of a development. The construction methodology would generally only be finalised once a contractor is appointed, and the impacts would be largely dependent upon the construction methodology and management. I am satisfied that there is sufficient information on file to assess the potential planning impacts and make a determination on the case. Whilst the proposal does involve a significant refurbishment and minor extension (9 sqm) to the site, it is a relatively small-scale development. The nature of the construction works will be relatively minor when compared with larger city centre redevelopment proposals, that often involve piling and take significantly longer time periods to complete.
- 7.2.3. I am satisfied that subject to a detailed Construction Management Plan, which would include standard construction techniques/practices and the incorporation of standard mitigation measures including noise control measures and hours of operation, the proposed development would not adversely impact on the operation of the neighbouring premises. Furthermore, having regard to the scale of the development, it is reasonable to assume that the construction period would be relatively short. Should the Board grant permission for the proposal I recommend that a Construction Management Plan be submitted and agreed with the Local Authority prior to the commencement of the development.
- 7.2.4. In summary, I would accept that almost all urban construction projects have the potential to temporarily impact and cause disruption to neighbouring land uses. However, subject to the appointment of a contractor and agreement of final construction and environmental management plans, with the planning authority, construction-related impacts could be satisfactorily mitigated. As such, I do not consider it reasonable to recommend permission is refused for the proposal on this basis.

7.3. Impacts on Protected Structure (No. 33 Baggot Street)

7.3.1. The Appellant argues that there is insufficient information to determine if the proposal will impact the character of the Protected Structure. The Applicant submitted an Architectural Heritage Impact Assessment with the planning application, which states that the mews structure was constructed in the mid-20th century and has no surviving historic fabric, but does form part of a row of historic mews along Little Fitzwilliam Place. Having reviewed the submitted plans, I am satisfied that the proposal will not negatively impact the character or appearance of the Protected Structure. In my opinion, the proposed works will significantly improve the visual appearance of the mews when viewed from both No. 33 and Little Fitzwilliam Place. The first floor extension is minor in nature (9.4 sq m) and is setback c.8.5m from the rear elevation of the Protected Structure. It will read as a contemporary addition to the building. Having regard to the size and orientation of the winter garden, adjacent to the proposed WC facilities, I do not consider that there will be any adverse overlooking from the proposal on No. 34 (which as stated above is in commercial use). Furthermore, the provision of the granite concrete paving and planting will improve the site's visual appearance. Having regard to the minor nature of the works, it is unlikely that they would have any impact on the structural integrity of the neighbouring Protected Structures. In summary, I am satisfied that the proposal does not contravene Policy BHA2 of the Development Plan.

7.4. Failure to Provide an Adequate RFI Response

7.4.1. The Appellant argues that the Applicant did not adequately respond to the Local Authority's RFI and that the proposal has an unsympathetic design and massing. To recap, the Local Authority had requested to omit the proposed first floor extension. However, the Applicant redesigned the proposal instead. The Local Authority did not consider that the redesign was 'significant' and as such did not request that the statutory notices be readvertised. As outlined above, the Planning Officer was satisfied with the redesigned proposal. I concur with the Local Authority that the proposal's design is acceptable and would not have any negative impact on the character or appearance of the neighbouring Protected Structures.

8.0 Appropriate Assessment

- 8.1.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, 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.

9.0 Recommendation

- 9.1. I recommend that planning permission be granted, subject to the conditions outlined below.

10.0 Reasons and Considerations

Having regard to the design, size and scale of the proposed development and the provisions of the Dublin City Development Plan 2022-2028, in particular Policy BHA14, which promotes the redevelopment and regeneration of mews lanes, it is considered that, subject to conditions set out below, the proposed development would not seriously injure the amenities of the area or properties in the vicinity or adversely impact the character of neighbouring Protected Structures. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on 14 th March 2023, 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.
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	Reason: In the interest of clarity.
2.	<p>Details of the materials, colours and textures of the external finishes of the proposed structures shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interests of the visual amenities of the area.</p>
3.	<p>The Developer shall comply with the following conservation requirements of the Planning Authority as follows:</p> <p>a) All works to the structure shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of Housing, Local Government and Heritage. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.</p> <p>b) All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works.</p> <p>c) All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.</p> <p>d) The architectural detailing and materials in the new work shall be executed to the highest standards so as to complement the setting of the protected structure and the historic area.</p> <p>e) Prior to commencement of development the Developer shall submit drawings detailing the discharge of rainwater from the main roof of the mews and the proposed extensions for the written agreement of the Planning Authority.</p> <p>Reason: In order to protect the original fabric, character and integrity of the Protected Structure and to ensure that the proposed works are carried out in accordance with best conservation practice.</p>
4.	The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be

	<p>submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.</p> <p>Reason: In the interests of public safety and the area's amenity.</p>
5.	<p>Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p>Reason: In the interest of sustainable waste management.</p>
6.	<p>Wate Supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
7.	<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</p>

	<p>the 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>Reason: 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>
8.	<p>The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City (St. Stephen's Green to Broombridge Line) in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the 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>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought

to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Susan Clarke
Senior Planning Inspector

18th June 2023