



An
Bord
Pleanála

Inspector's Report ABP-318954-24

Development	External development works to existing dwelling which is a protected structure, consisting of the installation of solar panels to south facing roof slope. Retention of existing single storey roofed terrace to rear garden totalling 37 m ² , installation of 7 rainwater harvesting butts to side of dwelling and timber cladding to rear boundary walls		
Location	33 Chelmsford Road, Ranelagh, Dublin 6, D06 VH61		
Planning Authority	Dublin City Council		
Register Ref. No.	4076/23		
Applicant(s)	Kevin McCarthy		
Type of Application	Permission and Retention	PA Decision	Grant permission for solar panels and water butts. Refuse permission for retention of roofed terrace and timber cladding to rear walls
Type of Appeal	First Party	Appellant	Kevin McCarthy
Observer(s)	None		
Date of Site Inspection	30 th April and 3 rd May 2024	Inspector	Michael Walsh

1.0 Context

1. Site Location / Description.

Chelmsford Road is part of a route connecting Upper Leeson Street with Ranelagh. This area was originally developed during the later part of the nineteenth century as a residential suburban area close to but separated to a degree from Central Dublin. This area had its own local government, in the form of the Rathmines and Rathgar Urban District Council, until 1930. The houses are generally of a good standard and enjoy spacious standards of layout. Chelmsford Road is fronted by substantial two-storey houses having red brick walls and slated roofs. The houses are mainly terraced and close to the street frontage. Arising from this, parking spaces for cars are available mainly on the kerbside. Parking is not permitted on the side of the road fronted by the subject property, while pay-and-display parking is available on the other side of the road. Most of the houses on Chelmsford Road are protected structures.

There are networks of lanes in the areas behind the main residential roads. Some of these lanes are through roads and others are cul-de-sacs. They are of varying width. One of these is Westmoreland Park, which branches off Ranelagh and runs behind Chelmsford Road. This lane runs past the back of No. 33 (the subject property) and terminates behind No. 30. It is very narrow but some parking is permitted on it. Some houses front on to it, mostly small cottages but including two new houses (Nos. 14 and 15). The back gardens of Nos. 30 to 37 and those of Nos. 1 to 4 Chelmsford Avenue open on to this lane. The house recently permitted on a site beside No. 4 Chelmsford Avenue has not yet been built.

The general layout of the subject property can be inferred from the plans submitted. The house has two storeys and, like many of its type, has a substantial return to the rear. It is set further back from the road than most of the houses on Chelmsford Road and its front garden is intact. There is a narrow passageway to the side of the house and this is gated. The kitchen is in the return and opens directly into the yard covered by the roofed terrace. From this yard there are steps up to a higher terrace comprising a lawn. This change of level is consistent with a general rise in levels from Chelmsford Road to Westmoreland Park. Immediately behind the roofed terrace there is a gravelled area developed as a parking space

for a car; this space has a sliding gate on to Westmoreland Park. The raised lawn extends to the back of the property.

The roofed terrace covers the low-level yard, as indicated. It is built on a timber frame with stout wooden posts set into the raised lawn on its outer face and set close to the wall of the house on its inner face. The covering is a form of clear corrugated light plastic sheeting. It abuts the roof of the return but there is a small gap between the sheeting and the roof. There are steps up to the raised lawn and parking area as shown but no doors on these openings. There is a gap from the side passage into the yard. The wall cladding has been constructed right against the garden boundary walls but is structurally independent. The wall sits behind and is lower. The water butts are located within the side passage and do not obstruct passage.

2. Description of development.

The full description of this development, as set out in the public notices, is as follows:

The development consists of external development works to the existing dwelling which is a Protected Structure. The development will consist of the installation of solar panels to south facing roof slope comprising of 22 no. PV panels totalling c.43 m² in area. Retention permission is sought for the existing single storey roofed terrace to rear garden totalling 37 m² in area, the installation of 7 no. rainwater harvesting butts located to side of dwelling behind front street facing pedestrian gate and for timber cladding to rear boundary walls.

The application was accompanied by an Architectural Heritage Impact Assessment. This document outlines the methodology of the assessment, deals with the legislative framework and historical context, describes the structure, assesses its significance and sets out an appraisal of its impact. The assessment of significance suggests that the house is of *regional* significance. In relation to the veranda, the substance of the appraisal is it does not cut across work of high architectural quality, is entirely reversible and does not affect aspects of interest of the protected structure. In relation to other components of the development, the substance of the appraisal is that the timber cladding is reversible, that the water butts have no significant impact on the heritage values of the structure and that the solar panels would have no significant impact on these values.

The planning authority, in a request for further information, sought clarification as to whether the enclosed terrace was to be a temporary or permanent structure, expressed concerns about the quality of the materials to be used in the case of proposed permanent use, and sought clarification regarding repair works to the rear boundary walls.

It was submitted in a detailed response that the covered terrace was intended for use for the foreseeable future, that the rear garden had been neglected in 2015, that the materials used in the roofed terrace are sustainable and recyclable, that the requirement to upgrade the materials used ought to be reconsidered by the Council and that the timber cladding to the walls is reversible. A covered smoking area with translucent glazing at the front of a public house on Camden Street is referred to as an example of the use of translucent glazing.

3. Planning History.

Previous Application on Same Site

Reg. Ref. No: 3911/14

Permission granted on 8th April 2014 for development comprising refurbishment and alterations to existing dwelling on site of current appeal.

4. National/Regional/Local Planning Policy

The current development plan for the area of the planning authority is the Dublin City Development Plan 2022-2028. This plan came into effect on 14.12.2022.

The zoning objective applicable to this site is Z2 – Residential Neighbourhoods (Conservation Areas) and this objective is expressed as, *to protect and/or improve the amenities of residential conservation areas.*

There are policies and objectives relating to the built heritage and the initial statement of Policy BHA2 might be referred to. This is expressed as:

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.

This property is listed on the Register of Protected Structures with the RPS Reference Number: 1501.

5. Natural Heritage Designations

The site of the proposed development is located in an older inner suburban area. The closest European sites are the South Dublin Bay SAC (Site Code: 0000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024). These sites, which overlap to a significant degree, are located well clear of the subject site. The river Dodder, together with a riparian area, is designated in the Development Plan as a *conservation area* and is also located some distance from the subject site.

Development, Decision and Grounds of Appeal

6. Planning Authority Decision.

The planning authority in this case made a split decision. They decided to grant permission for the installation of solar panels to south facing roof slope comprising 22 no. PV panels totalling c. 43 m² in area and for the retention of the installation of 7 no. 210 litre rainwater harvesting butts located to side of dwelling behind front street facing pedestrian gate, subject to the conditions specified in Schedule 1, and to refuse permission for the retention of the existing single storey roofed terrace to rear garden totalling 37 m² in area and the retention of the timber cladding to rear boundary walls for the following reason:

The retention of the unauthorised enclosed terrace and timber boundary would cause serious injury to the amenity, legibility, special architectural character and setting of the Protected Structure at 33 Chelmsford Road. The design and materiality of the enclosed terrace is of poor quality, comprising insensitive materials that have a significant adverse impact on the architectural character of the Protected Structure. Accordingly, the proposed development would contravene Policies BHA2 (items a, b, d, e, h,) of the Dublin City Development Plan 2022-2028 and Section 6.8.3 of the Department of Housing, Local Government and Heritage's Architectural Heritage Protection Guidelines for Planning Authorities, and would set an undesirable precedent for the development within the curtilage of protected structures and historic buildings in the area.

Referring to the reports on which this decision was based, the report of the Architectural Conservation Officer noted relevant policies of the Dublin City Development Plan, recommended that the solar panels be removed from the rear roof pitch and return, stated that the roofed terrace, constructed of poor quality materials, would have a significant adverse impact on the architectural character of

the protected structure and that the timber cladding on the boundary wall has a significant adverse impact on the structure.

The report of the Senior Planner concluded that the enclosed terrace and timber boundary are insensitive to the character of the protected structure and would set an undesirable precedent for other poor-quality developments. The report also noted that changing the glass to clear glass would not improve the external terrace. In relation to the solar panels, the opinion was expressed that the recommendation to only allow solar panels on the interior slopes was excessive, noting that the works are reversible.

7. First Party Appeal

- The Planning Authority placed too much weight on the Conservation Officer's recommendations and too little weight to the findings of the AHIA report submitted with the application.
- A finding in the Conservation Officer's report that the building is of *regional significance* is premature as the building is not yet listed in the appropriate inventory.
- A claim in the above report that the flat-roofed structure has a significant adverse impact on the special character of the structure does not set out precisely what special character is being undermined.
- There is no evidence that the development has reduced the amenities and setting of the property.
- The text of policy BHA2 of the 2022-2028 Development Plan as recited is not the full text.
- The claim that the wall cladding is inconsistent with Policy BHA2(f) is a misinterpretation of that policy.
- The development will not give rise to an undesirable precedent.
- Several subsections of Policy BHA2 [(a), (b), (d), (e) and (h)] are rebutted.
- Referring to Section 6.8.3 of the Architectural Heritage Protection Guidelines, the development is not disguised and was designed to have a minimal impact on the pre-existing return and rear elevation.
- The Planning Authority has made no finding of a material contravention of the Development Plan.

- In the event that the Board is minded not to grant permission, they might consider a temporary permission for five years.
- Among further points in a letter of support from the architect are that the terrace protects the existing building fabric, that the terrace roof has eliminated the risk of flooding to the rear kitchen, that the external structure is structurally independent from the existing dwelling and that the historic stone wall was refurbished and retained.

8. Planning Authority Response

The substance of this is a request that the Board uphold the split decision and that a condition be attached requiring the payment of a Section 48 development contribution.

9. Observations

A number of prescribed bodies were notified but no observations have been received, either from these bodies or anyone else, in relation to this appeal.

Environmental Screening

10. Environmental Impact Assessment Screening

Having regard to the limited nature and scale of the development and the absence of any significant environmental sensitivity in the vicinity 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.

11. Appropriate Assessment Screening

Having regard to the modest nature and scale of development, its location in an urban area, connection to existing services and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as 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.

2.0 **Assessment**

2.1. Scope of Consideration of Appeal

2.1.1 The development in this case comprises four components. The planning authority made a decision to grant permission for two of these components (the installation of solar panels and the retention of water butts) and to refuse permission for the remaining two components (the retention of the single storey roofed terrace and the timber cladding to the rear boundary walls). The appeal is expressed as being against the decision to refuse permission for the retention of the roofed terrace and the timber wall cladding. The grounds are essentially orientated towards the decision to refuse permission for the retention of the terrace and boundary wall cladding but the application is to be determined as if it had been made to the Board in the first instance. This report therefore takes account of all of the components of the proposed development.

2.2. Planning Context / Designations

2.2.1 This area, as noted above, was developed in the later nineteenth century as a residential suburban area relatively close to Central Dublin. The houses are generally of a good standard and enjoy spacious standards of layout. The environmental quality of the area is reflected in the extent of the area having the Z2 Zoning Objective (residential conservation areas) and in the substantial number of buildings on the Register of Protected Structures. It is noted that this house is not listed in the National Inventory of Architectural Heritage but the status of the house as a protected structure and the Z2 zoning are the relevant criteria in this case.

2.2.2 The house involved in this appeal (no.33), along with most of the houses on Chelmsford Road, is a protected structure. This protection includes the house, any extensions, any other structures within the curtilage and boundary walls. Section 57 (1) of the 2000 Act provides that the carrying out of works to a protected structure shall be exempted development only if the works would not materially alter the character of the structure or elements of it contributing to its interest. That section effectively extends planning control to alterations, extensions etc. which would otherwise be exempted. At the same time it is acknowledged in the Architectural Heritage Protection Guidelines that entry on to the Record of Protected Structures does not mean that a structure is forever frozen in time, that the original use of a

structure will usually be its most appropriate use and that good conservation practice allows a structure to evolve and adapt to meet changing needs. The alterations implemented following the development permitted in 2015 are an indication of adaptation to meet such needs. These alterations included internal and external modifications, the latter including provision for off-street car parking.

2.3 Solar Panels

- 2.3.1 These are proposed to be erected on three faces of the roof of the main part of the house and on the west-facing face of the roof of the return. None are proposed to be affixed to the south-facing roof slope, which faces Chelmsford Road. The installation of solar panels to suitably located surfaces has the potential to make a valuable contribution to the provision of renewable energy at a time of great concern about the effects of greenhouse gas emissions. In this context roof slopes are a significant resource. This situation is acknowledged in Policy CA7 of the Dublin City Development Plan which expresses support for high levels of energy conservation, energy efficiency and use of renewable energy resources in existing buildings.
- 2.3.2 There is clearly a degree of sensitivity, as in this case, where there are protected structures involved. At the same time, it would scarcely be reasonable to exclude the installation of solar panels in an area such as this. Solar panels affixed to roofs are a feature of houses in many residential areas and there is clearly some potential for further installations, having regard to an assessment of possible impacts in an area such as this. This approach is broadly consistent with the substance of Objective BHA22 of the Dublin City Development Plan.
- 2.3.3 In the current case the Conservation Officer made an assessment of this situation and recommended that the panels be confined to the hidden central valley of the roof and that the panels proposed on the rear roof and return be omitted as they would be visible from the rear laneway. While this laneway is open to public access, it does not lead anywhere and casual members of the public have little reason to be on this end of the laneway. I consider that the visual impact of those panels would be quite limited and I note that the Senior Planner took the view that the recommendation of the Conservation Officer in this regard was excessive.

2.4 Water Butts

2.4.1 The water butts are currently in position. They are located discreetly along the side wall of the house set well back from the building line. They clearly have a beneficial function in saving rainfall runoff and providing for its recycling. The need to conserve water resources is recognised in national and local policies and an initiative such as that provided here is consistent with these policies.

2.5 Roofed Terrace

2.5.1 It can be inferred from the reason for refusal for the retention of certain developments that the matter of most concern to the Planning Authority is the retention of the roofed terrace. Referring again to Section 57 (1) of the 2000 Act, which effectively de-exempts works to a protected structure which could be assessed as materially altering the character of the structure or elements of it contributing to its interest, it is clear that the thrust of the reason for refusal is that the roofed terrace would give rise to such effects, thereby necessitating the making of this application.

2.5.2 Leaving aside for the moment the implications of the inclusion of the house on the Record of Protected Structures, this roofed terrace is a type of addition which might be added to any house for purposes associated with the improvement of living conditions for the occupants. The nature of its use is explained in submissions and includes a drying area and outdoor seating area. This structure is also stated to have the function of reducing water ingress into the house. It would normally fall within the appropriate category of exempted development. Its floor area is below the permitted limit of 40 m² for ground floor extensions and it would not appear to infringe any other limitations.

2.5.3 Accepting the reality of the house being a protected structure, the roofed terrace is modest in scale and low. It is of lightweight construction, largely translucent and adjoining but not attached to the return. It obscures some views of architectural detailing but this is scarcely a major effect and the elements of this detailing are not directly affected by it. Specifications of the materials used in its construction, which include a type of corrugated plastic sheeting, have been submitted. The materials are essentially basic and functional and the roofed terrace clearly appears as a modern addition or annex. While the terrace roof and screening provide some

protection from the weather, the area of the terrace still has the character of an outdoor area; it is draughty with several openings to the garden, does not have external doors and has the original concrete yard as its floor.

- 2.5.4 The quality of its materials has been criticised by the Conservation Officer. It has been suggested on behalf of the appellant that clear glass panels might be used but this approach is not favoured by the Conservation Officer. I would see a problem in that, if better quality and more durable materials were used, this would effectively change the character of the structure to something close to a permanent extension to the house, thereby a materially different proposal to that whose retention is sought.
- 2.5.5 The request for further information sought clarification as to whether the terrace was to be a temporary or permanent structure. The response was to the effect that the applicant's preference is to use this terrace for the foreseeable future. At the same time the roofed terrace would appear, having regard to its materials and construction details, to have a somewhat limited lifespan. If it were no longer needed, it could easily be removed with no damage to the walls or roof of the return. In this regard it would be fully consistent with the principles of promoting minimum intervention and ensuring reversibility, as set out in the Architectural Heritage Protection Guidelines. In so far as the terrace could be seen as an adaptation to the house, this would also be consistent with the provision of the Guidelines that good conservation practice allows a structure to evolve and adapt to meet changing needs while retaining its particular significance.
- 2.5.6 Considering the broader implications of this development, it does not appear in any view from Chelmsford Road or Westmoreland Park, the essential point being that it is not seen in any views from publicly accessible locations. That effectively limits any possible impact that it might have on the ambience of this area, which derives from the presence of numerous protected structures and its overall architectural heritage value.
- 2.5.7 To have regard to the amenities of particular properties in close proximity, the only property which might be affected in any way is the house immediately adjoining (No. 34). That house has first and second floors facing to the rear on the main part of the house and windows facing to the side on the return. The latter directly face the solid

side wall of the subject house but the former overlook the roofed terrace at a slight angle. The terrace roof has the effect of reducing the degree of overlooking of the terrace and kitchen window so that any effect of this component of the development area on the amenities of property in the vicinity is positive.

2.5.8 Much attention is paid in the Planning Authority reports to details of the component materials, the nature of the roofed terrace structure and its siting in relation to the house. This however tends to draw attention away from the broader perspective of its implications for the integrity of the house and curtilage. It can reasonably be inferred that this property has been maintained to a good standard and that works carried out on foot of the permission granted in 2015 have brought about an improvement in the overall condition of the house and its external spaces. In this situation it is reasonable that a certain degree of discretion is allowed in making modest adjustments and adaptations in the area which could be described as the private realm of the property, in order to suit residents' needs. Turning to the broader context, any negative effects of the roofed terrace, being a modest structural element, on the visual quality of the return are offset by the positive contribution made by it to the amenities of the property, to its continued residential use and to the architectural character of the wider area.

2.6 The Wall Cladding

2.6.1 As with the roofed terrace, this is a type of development which would normally fall within the appropriate category of exempted development. The height of the timber cladding is not excessive. In this regard walls on the site seemingly deteriorated over a lengthy period. The internal wall close to the return was rebuilt some years ago and now defines the raised lawn. The boundary walls are stated to have been repaired and the cladding has been added in the interest of improving residential amenities. The cladding appears to have been well constructed and is clear of the walls, which remain in position.

2.6.2 Walls in themselves in some circumstances can be of significant historic, archaeological or architectural interest, but in this area their interest effectively derives from their association with the curtilages of protected structures. Aside from that function, it can reasonably be inferred that they are not of particular interest in their own right. In the course of the lengthy period since the houses were built it

might be inferred that many walls are likely to have been repaired and rebuilt in various ways. As with the roofed terrace, the cladding could be removed with the wall left in position, so that it is reversible.

2.7 Compliance with Development Plan Policies

- 2.7.1 The reason for refusal states that the roofed terrace and wall cladding contravene Policies BHA2 (items a, b, d, e, h,) of the Dublin City Development Plan 2022-2028 and Section 6.8.3 of the Architectural Heritage Protection Guidelines. These documents are linked in so far as Policy BHA2 (item a) states that regard shall be had to the Architectural Heritage Protection Guidelines. I have referred to these Guidelines in parts of this assessment and formed the opinion that the roofed terrace and timber cladding are broadly consistent with the general thrust of the Guidelines. In relation to Section 6.8.3, this section states, in summary, that attempts should not be made to disguise new additions and that extensions should complement the original structure. In the broad context, as set out above, I do not consider that the developments in question materially contravene this section.
- 2.7.2 The other selected items of Policy BHA2 tend to be expressed in very generalised terms, though item (h), referring to bats, is surely of little relevance. In any case, when consideration is given to the broad context, as in the case of the Guidelines, it can reasonably be inferred that the developments do not contravene the provisions of this Policy. It might be noted that item (c) of the Policy, not referred to in the reason for refusal, states that development shall ensure that the form and structural integrity of the protected structure is retained in any redevelopment.
- 2.7.3 The reason for refusal also refers to the creation of a precedent. That issue depends on the assessment of the actual developments but I would comment that the layouts of properties in this area appear to vary in many details with regard to such items as levels, layouts of external areas and modifications already made. In this context I do not see a great deal of substance in this component of the reason for refusal.

3.0 Recommendation

- 3.1. On the basis of the above assessment I recommend that permission be granted for the installation of solar panels to south facing roof slope comprising 22 no. PV panels totalling c. 43 m² in area and that permission be granted for the retention of the existing single storey roofed terrace to rear garden totalling 37 m² in area, the installation of 7 no. 210 litre rainwater harvesting butts located to side of dwelling behind front street facing pedestrian gate and timber cladding to rear boundary walls, all applying to a dwelling which is a protected structure.

4.0 Reasons & Considerations

The development comprises external development works proposed to be carried out and external development works proposed to be retained at a house which is on the Register of Protected Structures. It is considered, subject to compliance with the conditions set out below, that the works proposed to be carried out, comprising the installation of solar panels to south facing roof slope, would not materially affect the visual amenities or architectural character of the area. It is further considered that (a) the retention of the existing single storey roofed terrace would not, having regard to its lightweight construction, reversibility and lack of intrusion into any public view, materially affect the integrity of this house nor materially contravene Policy BHA2 of the Dublin City Development Plan 2022-2028 nor Section 6.8.3 of the Architectural Heritage Protection Guidelines, that (b) the retention of the rainwater harvesting butts located to the side of the dwelling would be consistent with the proper planning and sustainable development of the area and that (c) the retention of the timber cladding to rear boundary walls would not, having regard to its being an independent structure, materially affect the integrity of these walls.

5.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further particulars submitted on the 6th day of December 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.</p> <p>(b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” issued by the Department of Arts, Heritage and the Gaeltacht in October 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.</p> <p>Reason: To ensure that the integrity of the protected structure is maintained and that the structure is protected from unnecessary damage or loss of fabric.</p>
3.	<p>The developer shall comply with the requirements set out in the Codes of Practice from the Drainage Division, the Transportation Planning Division</p>

	<p>and the Noise & Air Pollution Section.</p> <p>Reason: To ensure a satisfactory standard of development.</p>
4.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall, inter alia, include the following requirements.</p> <ul style="list-style-type: none"> (i) Details of the limitations on the hours of operation. (ii) Details of all necessary measures to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads and the steps to be taken to remove any such spillage or deposit at the applicant's/developer's expense. <p>Reason: to protect the amenities of the area.</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.

Michael Walsh
Planning Inspector

Date: 22nd May 2024