



An
Bord
Pleanála

Inspector's Report

ABP-321032-24

Development	PROTECTED STRUCTURE: First floor side extension with rooflights, internal alterations and all ancillary works.
Location	38 Belgrave Road, Rathmines, D. 6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4047/24
Applicant(s)	Johnny O'Loughlin
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	As Above
Observer(s)	Belgrave Residents Association, Phillip O'Reilly, Rosaline O'Leary
Date of Site Inspection	9 th December 2024
Inspector	Kenneth Moloney

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1.0 Site Location and Description

The appeal site is situated off Belgrave Road in Rathmines, Dublin 6. The local area is predominantly residential with some commercial uses located eastwards of the appeal site on Dunville Avenue, adjacent to the Green Luas Line. The architectural style of the immediate area to the appeal site is strongly Victorian in character.

The appeal property, no. 38 Belgrave Square, is a three-storey property with Victorian features and is a protected structure. The subject property is an end of terrace and includes original features such as front brick façade, roof tiles, windows, door, front boundary wall and railings. The appeal property has a contemporary single storey extension to the rear, and a detached home office situated to the rear of the back garden.

The neighbouring property, no. 37 Belgrave Road, to the immediate east of the appeal site is a two-storey detached Victorian house, also a protected structure, with many external original features in-tact.

Both the appeal property and no. 37 Belgrave Road have single storey side entrances which adjoin the two properties.

2.0 Proposed Development

The proposed development consists of the construction of an extension comprising 10.7 sq. metres with 2 no. rooflights to the side/east of the property at first floor level.

The proposed single level extension is to accommodate two bathrooms from the two existing first floor bedrooms.

The proposed extension will include a north facing window onto the front elevation. The materials for the proposed extension are primarily finished in Flemish brick bond to match the existing house. The rear elevation of the proposed extension (south facing) includes a blind brick window feature.

The proposal also includes minor internal works at first floor level comprising of the removal of non-original wall partitions and the provision of new insertion wall. These works consist of removing the existing bathroom from the master bedroom and the

insertion of a new wall within the bedroom. The new wall is a feature within the bedroom and is not a partition wall and its height is not the full floor to ceiling height. The proposal also includes ancillary works necessary to facilitate the development. This includes two new openings to the east facing gable elevation.

3.0 Planning Authority Decision

The Planning Authority **refused** planning permission for the following reason.

Taking into consideration the special architectural and historical character and setting of the Protected Structure along Belgrave Road, it is considered that the proposed first floor extension to the side would be visually obtrusive and unduly overbearing when viewed along the street. The intervention into the Protected Structure would result in a loss of historic fabric, would contravene Policy BHA2 of the Dublin City Development Plan 2022-2028 and would set an undesirable precedent for similar type development. The proposal would be contrary to the proper planning and sustainable development of the area.

3.1. Planning Authority Reports

The Planner's report, in summary makes the following points;

- The proposal is similar to a previous development (4302/16) on the site which included an F.I. request for the omission of the current proposed first floor extension.
- Applicant claims previous concerns in relation to overshadowing were negligible given the orientation of the site.
- Current proposal has a reduced floor area relative to the previous proposal (4302/16).
- Conservation Officer has concerns in relation to the loss of historic fabric.

Conservation Officer's Report, in summary makes the following points;

- Concerns of the Planning Officer in relation to the previous application remain relevant.

- The proposal is considered overly prominent and incongruous to the special architectural character and appearance of the protected structure and would have a significant impact on the character of the historic streetscape.

Engineering Department – Drainage Division

- No objections subject to standard conditions.

3.2. Prescribed Bodies

- None

3.3. Third Party Observations

During the planning application stage 5 no. observations were received by the planning authority. The issues raised related to: impact on character and setting of protected structure; residential amenity, previous planning decision on the appeal site, precedents, consistency with development plan policy and national guidelines, visual impact; form, scale, height and proportions; glazing details; overlooking; overbearing; health and safety: adequate bathroom provision in existing house, and loss of historic fabric. One observation welcomed the proposed first floor extension.

4.0 Planning History

Relevant On-Site Planning History

P.A. Ref. 4302/16

- Planning permission granted, subject to conditions, for the following;
 - a. for internal and external alterations,
 - b. cessation of commercial use to rear of site,
 - c. change of use from residential and commercial use to use a single residential unit,
 - d. demolition of non-original extensions,
 - e. construction of a single-storey flat roof rear extension,
 - f. construction of single-storey ancillary domestic building,

- g. reconfiguration to front to provide 1 no. off-street car parking space,
- h. convert two bedrooms to one at second floor level and landscaping.

The Planning Authority, prior to the grant of permission, requested further information in respect of the proposed new first floor extension, as follows.

1. Taking into consideration the historical character and setting of the Protected Structure along Belgrave Road it is considered that the proposed new side first floor extension would be obtrusive and unduly overbearing when viewed along the street. The intervention into the historical fabric of the building at this location is considered unnecessary considering the space for 2 no. en-suites can be accommodated within the main building. Revised drawing shall be submitted indicating the permanent omission of the first-floor side extension and the accommodation of the proposed new bathroom facilities within the main building, if necessary.

The applicant, in response to the above request omitted the proposed new first floor extension. This response was accepted by the Planning Authority.

5.0 Policy Context

5.1. National Guidelines

The Architectural Heritage Protection Guidelines for Planning Authorities, 2004, offers guidance to planning authorities on determining planning applications in relation to protected structures.

Chapter 2 of the Guidelines deals with Protected Structures, while Chapter 3 deals with Architectural Conservation Areas.

Chapter 6 deals with Development Control in relation to Protected Structures. This outlines the requirements in relation to the content of applications involving protected structures, notification of prescribed bodies (para 6.6), and the advisability of requiring applicants to submit, with their proposals, an architectural heritage impact assessment (para 6.4.15). Advice is given on the framing of conditions, including recording where the dismantling of part of a protected structure is permitted. It is noted that the demolition of a protected structure, or of elements which contribute to

its special interest, may only be permitted in exceptional circumstances (Section 57(10)(b) of the 2000 Act).

5.2. Development Plan

The appeal site is zoned 'Residential Neighbourhoods (Conservation Areas) – Zone Z2 in the Dublin City Development Plan, 2022 – 2028, and the Objective is, '*to protect and improve the amenities of residential conservation areas*'.

The appeal site is a protected structure.

The relevant policy provisions in relation to the proposed development include the following.

- Policy Objective BHA2 'Development of Protected Structures'.
- BHA9 'Conservation Areas'.

5.3. Natural Heritage Designations

- None relevant.

5.4. EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

6.0 The Appeal

6.1. Grounds of Appeal

Visual Impact

- Proposal represents an appropriate form and scale of development with no undue visual impacts on the immediate and wider streetscape.

- The Planning Authority's planner's report contains no reference to perceived visual impacts. Visual impact is only referenced in the Conservation Officer (CO's) report.
- CO's report fails to include any commentary on the aspects of the proposal perceived as having undue visual impact. Fails to discuss height, depth and width of the extension, contemporary design or relationship with existing building.
- Positive amendments from previous proposal, including reduction in floor area¹ and set back² from front elevation, not discussed in the CO's report.
- Amended materials in current application not discussed in the CO's report with the amended materials representing a high-quality finish.
- Extension purposefully designed to ensure no undue visual impact on subject property, including the minimalist design curved wall, and the significant setback.
- Photorealistic imagery confirms proposal will not be visible from west along Belgrave Road (Fig. 5), almost entirely obscured from no. 58 Dunville Ave. (Fig. 6), and almost entirely obscured from no. 62 Dunville Ave. (Fig. 7); partially obscured by vegetation to the front of no. 37 Belgrave Rd (Fig. 8), and proposal clearly visible opposite no. 38 Belgrave Rd. (Fig. 9) with the curved nature of the proposal apparent at this viewpoint.
- Submitted imagery confirms proposal is subordinate to main structure, strong relationship with existing building having regard to materials and setback, as such ensuring no undue visual impact on the immediate and wider streetscape.

Historic Fabric

- CO's report fails to include any expansive commentary on the loss of historic fabric.

¹ Reduced from 15 sq. m. to 10.7 sq. m.

² Setback from front elevation increased from 1.635m to 3m.

- The proposed works relate to the end gable, which is of lesser significance, and includes removal of 2 no. circa 1 m. extents of wall space to facilitate door openings for proposed ensuite bathrooms.
- No loss of any architectural features of interest and relates solely to removal of limited extent of wall.

Relevant Precedents

- PA Ref. 4241/22³ relates to a grant of permission for a 3-storey side extension to protected structure, following F.I. request to reduce scale of proposal. ABP (ref., 315537) upheld LA decision. The permitted precedent has a setback distance of 2.5m, less than 3m in the current proposal at no. 38 Belgrave Road. The current proposal has more extensive floor area, height and width than the permitted precedent.
- PA Ref. 3078/17⁴ related to a grant of permission for 3-storey rear return with a floor area of 101 sq. m. extension to a protected structure. The CO's report supported this development on the basis of continued use, for modern needs, of an historic property. This methodology assessment contrasts with the current methodology assessment applied by the CO which suggests applicant revert to original floor plan.
- PA Ref. 3869/23⁵ relates to a grant of permission for 3-storey side extension following F.I. request to reduce scale of the proposal, and currently the subject of a first party appeal (Ref. 318593). PA report concluded no undue overbearing impact. Proposal would obscure views from Waterloo Rd, towards a coach house which is of conservation merit.
- PA Ref. 3078/23⁶ relates to a grant of permission part 2-storey and 3-storey side extension with PA report concluding proposal unlikely to have negative impact upon character of protected structure.

³ 52 Charleston Rd., Ranelagh, D.6.

⁴ No. 68 Ranelagh Road, Ranelagh, D. 6.

⁵ 1 Waterloo Road, D. 4

⁶ 90 Moyne Road, Rathmines, D. 6

- PA 4389/18⁷ relates to a grant of permission part 2-storey side extension and upheld by ABP (Ref. 303633) with Inspector's Report noting the good contemporary architecture precedent, which is applicable to the current proposal, which is less prominent from the immediate streetscape.

6.2. Planning Authority Response

The Planning Authority submits the following.

- Should permission be granted a condition is recommended requiring the payment of a section 48 Development Contribution.

6.3. Observations

The Board received 3 no. observations. The following is a summary of the issues raised in the observations received.

General issues

- Reference to the proposal as 'high-quality infill' development is not appropriate and misleading.
- Acknowledged the appeal site is not located within an ACA or identified in NIAH. Although appeal property has strong conservation merit.
- Misleading references to the scale of the proposal including referring to height as 3.18m, given that the height from the ground is 7.7m, and reference to a floor area of 10.7 sq. m. as opposed to 13.2 sq. m.

Visual Impact

- Volume of the proposed extension is greater than the previous rejected proposal⁸ despite the subjective improvements submitted by the appellant.
- The current proposal is 1.01m taller than that contained in the previous application PA Ref. 4302/16.

⁷ 88 Kenilworth Sq. East, D. 6

⁸ PA 4302/16

- Photorealistic images submitted by the appellant illustrate the proposal as an intrusion in the streetscape.
- The appellant's conclusions in respect of photorealistic images for both Fig. 6.0 and Fig. 7.0 are questionable.
- Figure 8 without the vegetation would reveal the true impact of the proposed development and displays a more protruding or forward projection of the proposed first floor side extension than that shown in both Fig. 6 and Fig. 7.
- Proposal is visually obtrusive and prominent and represents an incompatible design in an area zoned Z2 'residential conservation' and is inconsistent with the Victorian architecture including flat roof, covered design, and incorrect window design, non-centred window, and incompatible window design.
- Proposal will have a detrimental impact on the streetscape and undue visual impact on the adjoining property.

Loss of Historic Fabric

- The affected gable wall for intervention is also the chimney wall, that includes existing fireplaces.
- Proposal is inconsistent with policy BAH2 of the CDP.

Precedents

- Most relevant is the most recent decision at 38 Belgrave Road (PA Ref. 4302/16) for the removal of the side extension.
- PA Ref. 4241/22 is not comparable as replaces 3-storey extension, neighbouring property is same height, and main house is further set back from street than appeal property.
- PA Ref. 3078/17 is not comparable as is a replacement extension, the immediate context of Northbrook Road is commercial and current proposal is not an intervention to meet required living standards, as bathroom already exists.
- PA Ref. 3869/23 is in a commercial area not comparable to the current appeal.

- PA Ref. 3078/23 and PA 4389/18 relate to corner sites whereas as the current proposal is not a corner site.
- Submitted precedents are irrelevant as mainly located adjacent to a public road and are corner sites and not beside a neighbouring property.

Other Issues

- Loss in historic fabric could impact on the stability of the structure.
- Previous permission at no. 38 Belgrave Road implemented without protecting first floor fireplaces and failure to comply with condition no. 2(a) which required permanent omission of proposed new laneway.
- Significant adverse impact on adjoining residential amenities of no. 37 Belgrave Road.
- Appeal property accommodates modern living requirements.

7.0 Assessment

Having examined the application details and all other documentation on file, carried out a site inspection, and having regard to the relevant local/regional/national policies and guidance, I consider that the key issues on this appeal are as follows:

- Architectural Character and Visual Impact
- Historic Fabric
- Residential Amenity
- Other matters

7.1. Architectural Character and Visual Impact

The appeal property is a protected structure and is also located within a residential Conservation Area in accordance with the provisions of the Dublin City Development Plan, 2022 – 2028. In addition, no. 38 Belgrave Road forms part of a terrace of protected structures with many of the original features intact. The neighbouring detached property, no. 37 Belgrave Road, is also a protected structure. I would

consider therefore that the subject development is in an area of special architectural character having regard to the local context.

The relevant Development Plan policy for consideration is BHA2 'Development of Protected Structures', in particular part (d) which states as follows:

'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'.

and also part (e) which states as follows:

'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'.

In terms of scale, the proposed first floor extension to the side of no. 38 Belgrave Road with a floor area of approximately 10.7 sq. metres, is minor relative to the floor area of the existing house, approximately 333 sq. metres. Notwithstanding the minor scale of the proposed extension and having regard to a visual observation of the area, the proposed positioning of the extension at a gable end of a terrace of 3 houses, dating from c. 1875, would be prominent given its first-floor level and the juxtaposition of the terrace relative to no. 37 Belgrave Road, a detached two-storey protected structure. However, I will explain below the visual prominence of the proposed development depends on your viewpoint.

The built relationship between the appeal property, and thus the proposed first floor extension, and no. 37 Belgrave Road is a significant consideration in this appeal. In this respect I would have regard to the dimensions of the proposed development relative to the neighbouring property, no. 37 Belgrave Road and the potential for no. 37 Belgrave Road to visually screen the proposed development, as argued in the appeal submission, and potentially mitigate its visual impact.

The proposed extension, as evident from the submitted drawings, is set back approximately 3 metres from the front elevation of the existing house (no. 38 Belgrave Road), which is further back than the roof apex of no. 37 Belgrave Square,

which is set back 2.6 metres from its front elevation. The height of the proposed first floor extension is approximately 7.7 metres high, and less therefore than the roof apex height of no. 37 Belgrave Road which is approximately 7.9 metres.

I would consider, allowing for the dimensions described above, that no. 37 Belgrave Road would partially screen the proposed development from the views from the east (Dunville Road), depending on your viewpoint from the east, and therefore partially mitigate any potential visual impacts.

In further assessing the visual impact of the proposed extension, I would have regard to the submitted photomontages and a visual observation of the area. In general, the submitted photomontages demonstrate minimal visual impact from Dunville Road, and more of a visual impact from Belgrave Road, directly opposite the proposed extension. The submitted photomontages illustrate no visual impact from Belgrave Road, west of the appeal site, owing to the positioning of the proposed extension on the eastern gable elevation of the appeal structure.

View 1 and View 2 from the submitted photomontages, illustrate minimum visual impact from the proposed extension, however these visual representations relate to specific viewpoints from Dunville Avenue. I noted, having regard to a visual observation of the area, that the view from Dunville Avenue of both no. 37 and no. 38 Belgrave Road alters depending on the exact location of your viewpoint. For example, I noted from the entrance to Beechwood Park, off Dunville Road, that the view of the said two properties is different than that of View 1 in the submitted photomontages. Consequently, the visual impact of the proposed development would also be different, owing to the angle of Dunville Avenue, which veers north-east away from the appeal site and therefore resulting in greater visual impact than illustrated from view no. 1.

In addition, the front building line of no. 37 Belgrave Road differs slightly from that of the building line of no. 38 – 40 Belgrave Road resulting in the creation of a sizable visible void between the terrace and the detached property at no. 37 Belgrave Road. I would consider based on a visual observation of the area, that the proposed extension would be visible from Dunville Avenue, notwithstanding the submitted views from the photomontages.

Overall, I consider that the proposed extension would be directly visible from the opposite side of Belgrave Road, consistent with View 3 and View 4, as depicted in the photomontages, and depending on the exact viewpoint from Dunville Avenue the proposed extension would be visible. I would acknowledge that the proposed extension would not be visible from the west of no. 38 Belgrave Road.

I therefore would consider, that having regard to the positioning of the first-floor extension at the gable end of a terrace of protected structures, which are of special architectural character, owing to their in-tact nature of many original features and their contribution to the streetscape as an architectural set-piece, and further having regard to the dimensions of the proposed extension, and subsequent visual impacts, described above, the proposal would have an adverse visual impact and would detract from the special architectural character.

I note that the appeal submission includes precedents for extension developments to protected structures generally in the Dublin 6 area. I have examined all the submitted precedents, and it is my view that the precedents, while representing contemporary interventions to protected structures, are not directly comparable to the current proposal. In this respect I would consider that the submitted precedents generally represent corner sites or sites with greater set back distances from the public road, which would allow for greater space to accommodate additional floorspace without undue loss to historic setting whereas the proposed first floor extension is located between two protected structures facing onto Belgrave Road near the public road.

Having regard to my visual inspection and the documentation on the file it is my view that a key feature of the special architectural character is the intact nature of the original character of the 3-storey terrace of the 3 houses (38 – 40 Belgrave Road inclusive) dating from 1875 and its contribution to the streetscape as an architectural set-piece, and therefore the proposed extension would detract from the architectural quality and character of the area and therefore would be contrary to Policy BHA2 of the Dublin City Development Plan, 2022 – 2028.

7.2. Historic Fabric

The proposed extension, resulting in the opening of a side gable elevation, would result in the loss of historic fabric to the protected structure. However, I would consider that the actual loss of historic fabric in itself would not be significant given its location on the gable elevation. However, the combined effect of the partial loss of the gable wall combined with the intervention providing for the proposed first floor extension, as explained above in paragraph 7.1, would significantly diminish the special architectural character of the area. The scale of the proposed extension, at first floor level, would have a significant detrimental effect on the historic setting of the protected structure.

7.3. Residential Amenity

The proposed side extension is directly west of no. 37 Belgrave Road and situated on the eastern gable of a 3-storey building, i.e. no. 38 Belgrave Road, and as such, allowing for orientations will not adversely affect the residential amenity of no. 37 Belgrave Road in terms of overshadowing.

Although, as discussed above, the proposal will visually impact on the special architectural character of the area, however, the positioning of the proposed single level extension abutting a 3-storey gable wall, and to the side of no. 37 Belgrave Road will not impact on adjoining residential amenities in terms of having an overbearing impact.

In addition, the proposed extension is lit primarily by two roof lights and a front elevation window, none of which would present any overlooking issues for the neighbouring property no. 37 Belgrave Road.

Overall, I would consider that the proposed extension would not adversely affect the residential amenities in the immediate area

7.4. Other Matters

One of the submitted observations raises the issue of misleading references in respect of floor areas in relation to the first-floor extension. I would note from the submitted drawings that the floor area of the proposed extension is approximately

10.7 sq. metres, whereas the external dimension of the proposed extension is approximately 13.2 sq. metres. I would consider that the difference between the two floor areas clarifies any potential misleading references.

I would note that compliance with condition no. 2(a) in PA Ref. 4302/16 is questioned by the observers. However, the Board has no role in enforcement matters and as such this is a matter to be addressed by the local authority.

I note that it is argued that the loss in historic fabric could impact on the stability of the structure, however this is not supported or substantiated by any relevant documents.

8.0 AA Screening

Having regard to the nature and small scale of the proposed development and the distance from 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

I recommend that planning permission be refused for the reason set out below.

10.0 Reasons and Considerations

It is considered no. 38 Belgrave Road, a protected structure and located within Conservation Area, contributes positively to the historic urban form and character of the area forming part of an area of special architectural character. The intervention to the protected structure would have a detrimental effect on the character and setting of the special architectural character of the Protected Structure and its setting, would be contrary to Policy BHA2 'Development of Protected Structures' of the Dublin City Development Plan, 2022 – 2028, and would seriously injure the visual amenities and

the architectural and historical interest of the area and would therefore be contrary to the proper planning and sustainable development of the area.

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.

Kenneth Moloney
Senior Planning Inspector

15th January 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321032-24		
Proposed Development Summary	First floor side extension with rooflights, internal alterations and all ancillary		
Development Address	38 Belgrave Road, Rathmines, Dublin 6.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			Proceed to Q3.
No	✓		✓ No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	N/A		
No	✓		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			

Yes	Tick/or leave blank	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)
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5. Has Schedule 7A information been submitted?		
No	✓	Pre-Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ **Date:** _____