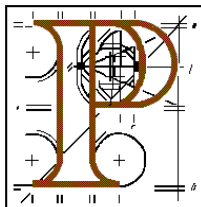


An Bord Pleanála



Inspector's Report

Site Address: Site at rear 28 Irishtown Road, Ringsend, Dublin 4.

Proposal: House with off-street car parking with vehicular and access car parking at 8a, 8b and 8c The Square onto Ropewalk Place.

Planning Application

Planning Authority: Dublin City Council

Planning Authority Reg. Ref.: WEB1346/15

Applicants: Susan Cassidy

Type of Application: Permission

Planning Authority Decision: Grant

Planning Appeal

Appellant: David Morris and Others

Type of Appeal: 3rd party –v- grant

Observers: None

Date of Site Inspection: 14th June 2016

Inspector: G. Ryan

1.0 SITE

- 1.1 The subject site is located in Ringsend/Irishtown in the eastern inner suburbs of Dublin City. This area is characterised by residential landuses with buildings of numerous sizes, styles, and periods evident in the surrounding streets. The commercial area of Ringsend is a short distance to the north and that of the smaller node of Irishtown is a short distance to the south. The site is located broadly between Irishtown road to the west and Ringsend Park to the east.
- 1.2 The site itself is effectively 'landlocked' within a block with 1-8 The Square to the northwest, 22-48 Irishtown Road to the southwest, 4-16 St Brendan's Cottages to the southeast, and 8A/8B/8C The Square to the northeast. No. 28 itself is a terraced dwelling, single story to the front, which is one of a pair with No. 26. They appear to date from maybe the middle third of the 20th Century. They appear to have once been part of a larger single landholding that originally stretched from Irishtown Road to Ringsend Park. The rear (northeast) section of this site was developed from a scheme of 3 2-storey houses – 8A/8B/8C – in the first decade of the 21st century under a 2001 permission from the board. Access to this scheme is by way of an unusually configured lane that runs along the scheme's north-western boundary. This lane also provides access, albeit unused, to the rear of the subject site, down the side of 8C. The rear garden of No. 26 is entirely landlocked.
- 1.3 The site is quite overgrown at present, with a number of mature trees. There are a number of sheds on site and a couple of cars in poor repair.
- 1.4 The land between the subject site and St. Brendan's Cottages to the southeast is occupied by a number of sheds and 'lean tos'. They do not appear to be in active use at this time.

2.0 PROPOSAL

2.1 SCHEME OVERVIEW

- 2.1.1 It is proposed to construct a 2 storey, 2 bedroom house with a stated floor area of 210m². The stated plot ratio is 1.83 and the proposed site coverage is 49%.
- 2.1.2 The house would be accessed from the northeast via the laneway to the side of 8A and 8C The Square. It would have a back garden that would effectively back on to the significantly-reduced back garden of No. 28 Irishtown Road.
- 2.1.3 The house would span the width (around 5.5m) of the plot, and would have an unusual roof profile, with a ridge perpendicular to the

length of the plot. The fenestration at first floor level is also unusual in that both bedrooms would have their windows facing projecting wing walls, presumably in order to prevent or minimise overlooking of adjoining properties.

2.1.4 There is a letter of consent on file from the applicant's sister.

2.2 FURTHER INFORMATION REQUEST AND RESPONSE

2.2.1 Prior to issuing a decision, the planning authority sought further information on 2 points, which can be summarised as follows, along with the response from the applicant.

Planning authority request	Applicant's response
1. Requests a reduction in the scale of the dwelling, omitting the studio void and first floor patio. Bedrooms to be redesigned to provide adequate natural light. A shadow analysis is also requested.	<ul style="list-style-type: none"> • Studio, void, and patio omitted in revised drawings. • Height lowered by 300mm. • Floor area reduced [from 210m²] to 124m² and open space increased to 67m². Is now a one double bed / one single bed dwelling. • First floor bedroom revised to provide natural light. • Submission includes photographs of a model of the revised design. • Solar analysis study and report submitted, including computer generated imagery. Concludes some impact on No. 26.
2. Requirements of Roads (etc.) Division. a) Requests details relating to rear access	a) Documentation shows that the lane between The Square and the site was not sold as part of 8A/8B/8C. It is in the applicant's ownership and easements are granted to 8A/8B/8C and must be kept clear.
b) Requests clarification on current use of courtyard at 8A/8B/8C.	b) The courtyard is used as communal open space and for parking. The parent planning permission shows this area as parking, although the current residents park their cars outside on The Square.

<p>c) Request 'auto track' drawings showing vehicles accessing and egressing the site in a forward motion, removing the requirement for reversion into communal area.</p>	<p>c) The applicant intends to install an automatic car turntable on site to remove the requirement for reversing. Specifications attached.</p>
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Table 1

3.0 SUMMARY OF REPORTS TO THE PLANNING AUTHORITY

3.1 REPRESENTATIONS

Objections were submitted from the following parties.

- Joe and Linda Walsh
- Dave Morris and Others
- Sharon Coffey

The issues raised in these objections are largely reflected in the appeal grounds summarised at 7.0 below. Other points of note can be summarised as follows.

- The proposed terrace would overlook the rear bedroom windows (of 6 St. Brendan's Cottages)
- The existing trees provide an amenity.
- The proposed development would result in on-street parking and bin storage within The Square.

3.2 DEPARTMENTAL REPORTS

3.3 Drainage Division

3.3.1 No objections subject to conditions.

3.4 Roads Streets & Traffic Department – initial report

Raises a number of concerns that can be summarised as follows. Recommends requesting further information.

- There is no evidence of a right of way across the adjoining private development.
- There is concern that the courtyard to 8A/8B/8C may be used or parking or other uses.

- The proposed development might give rise to pedestrian/vehicular conflict.
- It is not clear whether vehicles could turn on site. Autotrack drawings are needed.
- There is parking congestion on the surrounding road network.

3.5 Roads Streets & Traffic Department – second report

Following the receipt of further information, this department have no objections subject to conditions.

3.6 PLANNING OFFICERS REPORT

3.6.1 Planning officer's initial report

- 3.6.2 The site is acceptable from the perspective of internal standards (floor areas etc.)
- 3.6.3 The garden at 43m² plus the patio at first floor level would result in 54m² of private open space. 5-8m² per bedspace is required in the inner city. As such, this would be sufficient for a 4 bedspace house [which this is].
- 3.6.4 The proposed development would present a 2 storey form along the shared boundary with No. 26, with the potential to impact negatively on this property's residential amenity, albeit that this garden is already overlooked by the houses on The Square. There are concerns about overshadowing and overlooking in a general sense.
- 3.6.5 There are concerns about the proposed development's access to natural light, particularly the bedrooms, which face blank walls.
- 3.6.6 The proposed development may represent overdevelopment of this restricted backland site. A reduction in size of the dwelling is required.

3.6.7 Planning Officer's second report

- 3.6.8 Following the receipt of further information, the planning officer makes a number of additional points.
- 3.6.9 There are still concerns regarding access to daylight for the proposed development, and the impacts on the adjoining property at No. 26. To address this, the house could be recessed by 1m at first floor level.
- 3.6.10 There would be some overshadowing of Nos. 5 and 6 The Square.
- 3.6.11 Subject to conditions, the proposed development may be granted. Recommends 9 conditions.

4.0 PLANNING AUTHORITY DECISION

The planning authority decided to grant permission subject to 11 conditions, many of which could be considered 'standard' conditions. The only condition of note can be summarised as follows.

- 3 First floor [along boundary with No. 26] to be partially set back 1000mm, creating a 2 bedroom unit. Rooflights to be provided to ground floor.

5.0 HISTORY

PL29S.123862 (PA ref 2652/00) – permission granted on appeal in 2001 on 'site to the south of the Square' for a development 'To build a two storey detached dwelling and two three storey semi-detached townhouse

6.0 POLICY

6.1 DUBLIN CITY COUNCIL DEVELOPMENT PLAN 2011-2017

The site is zoned 'Z1 – to protect, provide, and improve residential amenities'.

Sections 17.9.5 and 17.9.6 of the plan address Backland Development and Development in Side Gardens. Both sections are generally supportive, subject to considerations such as the pattern of development and amenity of adjoining dwellings.

Appendix 8 sets out roads standards for various classes of development. It requires that where driveways are provided, they shall be at least 2.5m or, at most, 3.6m in width, and shall not have outward opening gates.

Section 17.9.1 sets out Residential Quality Standards and requires that a standard of 5-8m² of private open space per bedspace will normally be applied in the Inner City subject to a minimum of 25m² of private open space. A single bedroom represents one bedspace and a double bedroom represents two bedspaces.

7.0 GROUNDS OF APPEAL

The 3rd party appeal was submitted by David Mulcahy Planning Consultants on behalf of a number of residents c/o Dave Morris of 8B The Square, Irishtown, which is the south easternmost of the trio of houses to the northeast of the subject site.

Other parties cited in the appeal are listed with addresses at 8A and 8C The Square, 2 further houses at The Square, 5 at St. Brendan's Cottages, and 4 other addresses in the wider area.

The main grounds of this appeal can be summarised as follows.

7.1 GENERAL POINTS

- 7.1.1 The changes made by the applicant do not properly address the core issues raised in respect of access, overbearing impact, and construction.
- 7.1.2 The appellants are disappointed that the planning authority did not consider the further information to be significant, and did not offer residents the opportunity to comment on the changes made.

7.2 TRAFFIC ISSUES

- 7.2.1 An expert traffic report is included with the appeal, which concludes that the access arrangements are substandard and dangerous. During the author's site visit, it took over 1 minute to complete the 23 turning manoeuvres required to enter the site from Ropewalk Place. There is evidence of scuff marks on the walls of 8A as a result of collisions.
- 7.2.2 The Department of Environment's 'Recommendations for Site Development Works for Housing Areas' recommends that driveways should have a minimum width of 3m. Sections of the proposed access have a width of just 2.54m. The report also compares the proposed development to DMURS.
- 7.2.3 The appeal notes that the existing access arrangements have been deemed so unfit for purpose that the existing residents of [8A/8B/8C] the Square would rather park their cars in the street than continue with the original intention to park inside the gate.
- 7.2.4 Construction access would be very problematic. The narrow access lane would not facilitate construction vehicles.

7.3 AMENITY IMPACTS ON 8A/8B/8C

- 7.3.1 The residents of 8A/8B/8C have agreed amongst themselves not to park in their courtyard due to the difficulty of access and the lack of alternative amenity space. The introduction of a car would conflict with this amenity use.
- 7.3.2 The proposed development has been moved by way of further information just 4m away from the boundary with 8B/8C, giving a separation distance of just 8m, which is exceptionally tight, particularly as compared with the typical arrangement of 22m. These gardens are very small.

8.0 SUMMARY OF RESPONSES

8.1 PLANNING AUTHORITY

8.1.1 The planning authority have not responded to the matters raised in the appeal.

8.2 FIRST PARTY RESPONSE TO THIRD PARTY APPEAL

A response submitted on behalf of the applicant counters the grounds of appeal and includes content from previous submissions. Other items of note can be summarised as follows.

- 8.2.1 Includes revised drawings that incorporate Condition 3 of the planning authority's decision; setting back the first floor by 1m from the side boundary.
- 8.2.2 Includes extracts from PA Ref. 2652/00 (8A/8B/8C) in relation to access and parking, which shows 2 parking spaces in the 'courtyard' and one to the side of 8A. This is an established and accepted right of way. The use by the appellants of this area for bin storage and parking is not permitted. The applicants fully intend respecting the amenity of the central space between 8A/8B/8C. The applicants look forward to being good neighbours in this regard.
- 8.2.3 The fact that the rear gardens of 8B/8C are substandard is not the fault of the applicant. The 22m separation distance refers to opposing first floor windows, which does not apply in this instance.
- 8.2.4 The removal of existing mature trees will greatly improve the amount of daylight received by neighbouring properties.
- 8.2.5 It is the applicant's intention that the majority of large items would be craned in over No. 28 during the construction process, with minimal construction access through 8A/8B/8C. Where required, this would be managed carefully with permission of neighbours.

9.0 ASSESSMENT

Having inspected the site and reviewed the file documents, I consider that the issues raised by this appeal can be assessed under the following broad headings:

- Principle of development
- The scheme before the board for determination
- Impacts on residential amenities
- Access and parking
- Visual impact
- Site development standards

- Screening for appropriate assessment

9.1 PRINCIPLE OF DEVELOPMENT

9.1.1 The subject site is located in an established residential area and is zoned for residential purposes. It is near a bus corridor and is very close to both Ringsend and Irishtown, which have established shops and services. As such, I consider that the principle of development in this instance is acceptable.

9.2 THE SCHEME BEFORE THE BOARD FOR DETERMINATION

9.2.1 It is worth at this juncture mapping the evolution of the proposal during the course of the application/appeal

Stage	Changes	Proposal – ground floor	Proposal – first floor
Application	-	Entrance hall / living kitchen / dining Studio	2 bedrooms, each facing 'wing walls'
Further information	Studio omitted Height lowered First floor patio omitted. First floor fenestration changed Car turntable introduced. New 'front' garden to northeast.	Entrance hall / living kitchen / dining	2 bedrooms and one study. Windows now face No. 28 and the rear of the houses of 'The Square'.
1 st party response to appeal	1 st floor set back 1m from side, as per PA Condition 3.	Entrance hall / living kitchen / dining	Back to 2 bedrooms. Fenestration as per Fl.

Table 2

- 9.2.2 It is relevant to note that the further information was not deemed by the planning authority to contain ‘significant additional data’, and the planning authority did not require the application to ‘re-advertise’ the further information under the terms of Article 35 of the Planning and Development Regulations 2001 (as amended). This is particularly notable in light of the significant changes to the fenestration at first floor level. This matter was highlighted in the appeal.
- 9.2.3 In my opinion, the board should in this instance assess the application de novo, as per Section 37(1)(b) of the planning act which requires that the board ‘*determine the application as if it had been made to the Board in the first instance*’. In practical terms, I propose that the scheme be assessed on the basis of the originally submitted drawings. Where issues arise, I consider it appropriate to consider whether the ‘amendments’ proposed at further information and appeal response stage would address those issues. Following on from such consideration, there is latitude to incorporate all or some of these proposed ‘amendments’ by way of condition, as per the board’s discretion to attach conditions in any event.

9.3 IMPACTS ON RESIDENTIAL AMENITIES

- 9.3.1 The projecting wing wall at first floor level in front of the window of Bedroom 1, as seen in the first floor plans, would successfully prevent any overlooking of 8B the Square. It would not block the view of the westernmost of the first floor windows to 8C however, and there would be direct potential overlooking at a remove of around 10m. However, this view would be offset at an angle, and would only be possible from certain vantage points within Bedroom 1.
- 9.3.2 A potential remedy would be to extend the wing wall further, past the side building line. However, this would create additional overshadowing of the rear gardens of 8B and 8C. On balance, I consider the initial proposal to be an appropriate response in balancing these impacts.
- 9.3.3 In a similar fashion, the wing wall in front of the window of Bedroom 2 prevents direct overlooking of the adjoining plots, which in this instance are some disused sheds and outbuildings to the rear of St. Brendan’s Cottages. Potential oblique views are possible of the rear of #30. However, the arrangement of fenestration and open space at #30 does not give rise to concerns. There would be overlooking of the first floor window of #28 – the existing house on the landholding – from the proposed external patio at a remove of around 13.5m, which is quite close. One remedy might be to require a gravel or sedam roof to this area or to alter the fenestration to inhibit access and therefore prevent potential overlooking. However, on balance, I do not consider this to be necessary, given the likely pattern and intensity of use of this patio area.

9.3.4 In terms of overshadowing, the proposed development would represent something of an impact on surrounding properties. However, in a tight urban environment, I do not consider these impacts to be undue. I do not consider the planning authority's Condition 3 to be necessary. It is a significant burden on the subject site in terms of layout and construction, and does not benefit the neighbouring properties to any great extent.

9.3.5 Modifications at further information stage

9.3.6 The proposed changes to the first floor fenestration at further information stage represent a significant increase in negative impacts on surrounding properties in terms of potential overlooking. The first floor had been effectively 'inward facing', whereas the further information modifications would result in it being 'outward facing', with the windows of bedroom 2 facing the rear of the houses on Irishtown Road at a separation of around 13m, and the window of Bedroom 1 facing the rear of the houses on The Square at a separation distance of around 18m. I do not consider this to be a positive move, particularly in light of the scheme not having been re-advertised.

9.4 ACCESS AND PARKING

9.4.1 Access via the laneway from The Square, past the sides of 8A and 8C is very tight, the 90⁰ manoeuvre via the long gate at the entrance from the public road beside 8A is clearly problematic in its current configuration. There is strong evidence to suggest that this entrance is not used by existing residence, who prefer to park on-street and reserve the courtyard for recreational purposes.

9.4.2 The width would appear to be compliant with development plan standards (2.5m), but not with DoE recommendations (3m). Nevertheless, I consider that this is a viable access, and note that the Roads and Streets section of the planning authority have no issue in this regard. There is an existing – albeit fallow – vehicular entrance to the site currently, via this lane.

9.4.3 I consider it appropriate to require that cars be able to both enter and leave the site travelling forward, i.e. to be able to turn within the site. I note that the response to the planning authority's further information request for autotrack drawings was to propose a mechanical turntable. I find it hard to imagine that it would not be possible to turn a car within the site, given the space available, albeit not necessarily a 3-point turn. However, it might be reasonable to assume given the applicant's response that it is not possible. While a turntable might reasonably be seen as 'overkill' in this instance, and perhaps indicative of inherent difficulties in developing the site, I am prepared to accept this aspect of the proposal on face value.

9.5 VISUAL IMPACT

- 9.5.1 The proposed development would represent a significant intervention into the centre of this inner suburban block, and would be visible from the rear of several properties. However, I do not consider that it would be unduly of character such that it would warrant a refusal of permission.

9.6 SITE DEVELOPMENT STANDARDS

- 9.6.1 The house is well designed internally and allows for a good standard of residential amenity. The overall floor area is not such that would require further scrutiny of room sizes. The planning authority clearly have concerns regarding the natural light and outlook from the bedrooms, but I do not consider this to be problematic given the proposed development's overall standard of residential amenity.
- 9.6.2 A rear garden of 42.7m² is proposed, along with a first floor patio of 11.6m², giving a total of 54.3m². The proposed development is a '4 bedspace' house under the terms of the Dublin City Development Plan, generating a demand for 20-32m² of open space. As such, the proposed development is compliant. I note that a rear garden of #28 that would be retained would amount to around 45m². Based on the information provided, this would appear to be a 3 bedroom house, with around 5 bedspaces. This would generate a demand for 25-40m² of private open space. As such, the proposal is compliant in this regard also.

9.7 SCREENING FOR APPROPRIATE ASSESSMENT

- 9.7.1 The nearest Natura 2000 site is the Dublin Bay SAC and the South Dublin Bay and River Tolka Estuary SPA around 1km to the southeast. Given the minor nature of the proposed development, I do not consider that the proposed development would be likely to have any significant effects on the integrity of a European site having regard to its conservation objectives.

10.0 CONCLUSION AND RECOMMENDATION

Based on the above, I recommend that permission be granted on the basis of the original drawings submitted with the planning application, and subject to conditions based on those attached by the planning authority. The scheme is in a tight, restricted site, but has been well designed to take account of its constraints. It provides a good standard of residential amenity without undue impacts on surrounding dwellings.

11.0 REASONS AND CONSIDERATIONS

Having regard to the nature and scale of the proposed development, the pattern of development in the vicinity, and the zoning objective for the site and the policies of the planning authority as set out in the Dublin City Development Plan 2011-2017, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not detract from the character of the area, and would be in accordance with the policies set out in the said development plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.

Reason - In order to clarify the development to which this permission applies.

2. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to and agreed in writing by the Planning Authority.

Reason: In the interests of orderly development and the visual amenities of the area.

3. The proposed car turntable shall be constructed as per the details submitted by the applicant on 29th January 2016.

Reason: In the interests of traffic safety

4. The development shall comply with the following requirements of the Roads and Traffic Planning Division:
 - a) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of development, shall be at the expense of the developer.
 - b) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason: To ensure a satisfactory standard of development.

5.
 - a) The site and building works required to implement the development shall only be carried out between the hours of:
Mondays to Fridays - 7.00am to 6.00pm
Saturday - 8.00 a.m. to 2.00pm
Sundays and Public Holidays - No activity on site.
 - b) Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from Dublin City Council. Such approval may be given subject to conditions pertaining to the particular circumstances being set by Dublin City Council.

Reason: In order to safeguard the amenities of adjoining residential occupiers.

6. Site drainage shall be constructed to the satisfaction of the planning authority.

Reason: To ensure a satisfactory standard of development.

7. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.

8. During the construction and demolition phases, the proposed development shall comply with British Standard 5228 "Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control."

Reason: In order to ensure a satisfactory standard of development, in the interests of residential amenity.

9. The naming and numbering of the dwelling shall be in accordance with a naming and numbering scheme submitted to, and agreed in writing, by the Planning Authority, prior to the occupation of the dwelling.

Reason: In the interest of orderly street numbering.

10. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory restoration of the site in the interest of visual and residential amenity.

11. 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 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.

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.

G. Ryan
Planning Inspector
21st June 2016