



An  
Bord  
Pleanála

## Inspector's Report PL 29S.248508

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<b>Development</b>	Construction of a two-storey detached three-bedroom dwelling and all associated works.
<b>Location</b>	Rear of 16A Kenilworth Road (Protected Structure) on corner of Kenilworth Lane East and South. Rathgar. Dublin 6.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	2353/17.
<b>Applicant(s)</b>	Jamie Moran.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	To Grant Permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Philip O' Reilly
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	August 8 <sup>th</sup> , 2017.
<b>Inspector</b>	Breda Gannon.

## 1.0 Site Location and Description

The site is located off Kenilworth Road, Dublin 6. It occupies a corner position at the junction of Kenilworth Lane East and Kenilworth Lane South. The rectangular shaped site is bounded by a two-storey house and garden to the west and by a masonry wall that extends along the laneway to the east. The south (rear) boundary is contiguous with the rear of a three storey protected structure at No 16A Kenilworth Road. The front (north) boundary addresses Kenilworth Lane East. The site is overgrown and currently vacant. Vehicular access is available from the laneway to the south.

The area is predominantly residential with a number of lock up garages/workshops located on the opposite side of the laneway to east. It has experienced more recent development in the form of mews residences at the rear of existing properties. The constructed houses vary considerably in terms of design, scale and finish, with inconsistent building lines and roof ridge levels.

## 2.0 Proposed Development

2.1. The development, as described in the public notices submitted with the application, proposed the following;

- a) the construction of a 190 sq. two-storey detached three-bedroom dwelling,
- b) the demolition and re-construction, with reused and salvaged granite of the existing boundary wall to Kenilworth Lane East and Kenilworth Lane South and the construction of a new salvaged granite boundary wall to the rear boundary of the garden,
- c) the widening of the existing vehicular entrance gate on Kenilworth Lane East along with a new pedestrian gate,
- d) the provision of 2 no. off street car parking spaces, and
- e) all associated site works.

The application is supported by a Conservation Impact Report.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to grant permission for the development subject to 9 no. conditions, which contains the following conditions of note.

Condition No 2 – Financial Contribution.

Condition No 3 – a) Requires that the first floor landing window in the east side elevation be permanently glazed with obscure glass.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The **Planning Officer's** report of 24/4/17 notes that the proposal addresses the Board's reason for refusal on the previous application by reducing the height and length of the proposed dwelling. A private open space area of 55 sq.m would be provided to the rear of the dwelling and a separation distance of 24m to 27m between the proposed mews dwelling and the rear of 16A Kenilworth Road.

The front building line will be 1.594m forward of the building line of the three neighbouring dwellings at No's 14,15 and 16 Kenilworth Lane East which is considered acceptable on this corner site and in a location where there is a variety of building lines for mews dwellings. In order to avoid overlooking of the rear garden of 18 Grosvenor Place, it is recommended that a condition be attached to require that opaque glass be provided to the first floor landing window in the east side elevation.

The proposal is considered acceptable and subject to conditions will not affect the character or scale of the protected structure in the residential conservation area or be injurious to the residential amenities of adjoining property. The proposal is considered to be consistent with the provisions of the development plan and the proper planning and development of the area.

#### 3.2.2. Other Technical Reports

The **Roads & Traffic Planning Division** report of 12/4/17 raise no objection to the development subject to conditions.

The **Drainage Division** in their report of 24/3/17 raised no objection to the development subject to conditions.

### 3.3. **Prescribed Bodies**

None.

### 3.4. **Third Party Observations**

An observation was received from Philip O' Reilly, 18 Grosvenor Place which raised the following issues;

- The development is too big for this restricted site and will be overwhelming and overpowering.
- The vast majority of other residential developments have pitched roofs. This development should also have a pitched roof to blend in with its surroundings.
- The suggestion that the existing stone wall is not of architectural merit is refuted. It should be retained and restored and only rebuilt where necessary using original stones.
- There should be no glazed elements in the east elevation of the development at first floor level to avoid overlooking of the back gardens of the houses of Grosvenor Place.

## 4.0 **Planning History**

**2834/16** – The planning authority's decision to grant permission for a two-storey three-bedroom house on the site was overturned by the Board (PL 29S. 246972). It was considered that the proposal would result in overdevelopment of the site, and that the excessive scale and proportion of the dwelling would enclose and have an overbearing impact on the adjoining property to the west and seriously impact on the residential amenities of adjoining property.

## 5.0 Policy Context

### 5.1. Development Plan

The operative development plan is the **Dublin Council Development Plan 2016-2022**. The site is located in an area zoned 'Z2 Residential Conservation Areas' with the following objective;

*'To protect and/or improve the amenities of residential conservation areas'*.

Residential use is a permitted use in this zoning category.

Policy CHC4 -Seeks to protect the special interest and character of Dublin's Conservation Areas. Policies in relation to Conservation Areas/Residential Conservation areas are set out in Section 11.1.5.4.

Standards for Residential Accommodation (houses) are set out in Section 16.10.2, and Mews Dwellings at 16.10.16

Volume 4 of the Plan contains the Record of Protected Structures. The policies in relation to Protected Structures are set out in Section 11.1.5.1.

### 5.2. Natural Heritage Designations

None

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- All glazed elements on the east elevation at 1<sup>st</sup> floor level should be omitted. Given the extensive flat roof element of this development, a skylight can offer adequate light for the area. The area is indicated as a 'landing' on the drawings submitted and the provision of natural light by means of a skylight is acceptable and complies with requirements under the building regulations.
- Having no glazed elements in the eastern elevation will ensure compliance with proper planning.

## 6.2. Applicant Response

The set back in the proposal along the east elevation is in direct response to the comments made in the Inspector's report PL29S.246972 (Section 5.6 Overlooking) but the main purpose is to 'break' the perceived linear nature of the east elevation also referred to in that report.

The distance to the rear of the Grosvenor Place boundaries directly across from this non-habitable obscured first floor window on the east end of the proposal, which is required to be permanently obscured as per Condition No 3a, is c 8.9m to the rear boundary and 29.7m to the first floor windows which is well in excess of requirements to prevent overlooking. The first floor landing which the glazed element serves is a non-habitable circulation area. To remove this element and replace with a skylight would result in an inferior design and reduce the overall internal quality of the proposal.

Is of the opinion that the appeal is frivolous and without substance and that the Board should use its discretion to dismiss it.

## 6.3. Planning Authority Response

The planning authority made no response to the grounds of appeal.

## 6.4. Observations

None

## 7.0 Assessment

7.1. The proposal is to develop a single family dwelling to the rear of 16A Kenilworth Road, which is a Protected Structure. The proposal is acceptable in principle within this Z2 zoned area.

7.2. The questions that arise for determination by the Board are;

- whether the proposed development will detract from the character and setting of the Protected Structure and the amenities of the residential conservation area, and

- whether the proposal addresses the concerns raised by the Board in its previous decision relating to the subject site, to warrant a grant of permission.

7.3. The appeal site forms part of the original curtilage of the Protected Structure, which appears to have been in separate ownership for some time. I note from photographs attached to the original application on the site, that the appeal site was covered by trees and not available as a rear garden area to the protected structure. The proposed development will not alter this established arrangement and the rear amenity area associated with the protected structure will be maintained as existing. Having regard to the established pattern of development in the area and the separation distance to the rear of the 16A Kenilworth Road, I do not consider that the proposed development will impact on the character or setting of the protected structure and I note that no issues in this regard were raised by the Board in its previous determination of a larger scale proposal on the subject site (PL29S.246972).

It is proposed to demolish and re-construct the existing boundary wall running along the laneways abutting the site. The wall appears to have formed part of the original curtilage of the protected structure. Whilst the removal of historic boundary features is not generally permitted under the provisions of the development plan (11.5.3) and would be contrary to established conservation practice, it is not entirely original, with evidence of significant intervention and repair in places. Its stability is also compromised by vegetation/trees which have established within its structure. The applicant proposed to salvage the stone following demolition and re-use it to replace the wall.

The Conservation Impact Report refutes any suggestion that the wall has any architectural merit, noting its inferior construction using rubble, mud and lime aggregate. I accept that construction could not proceed on the site without the removal of tree stumps and that this will involve the dismantling of the wall. Having regard to the inferior quality of sections of the wall and its compromised stability, subject to a method statement being submitted to and agreed with the planning authority with input from a professional with conservation expertise, I consider that the wall can be effectively replaced in a manner which will not compromise the character/setting of the adjacent protected structure or the amenities of the residential conservation area.

I accept that the design of the proposal is not typical of that normally associated with new development, which traditionally involved the conversions of coach houses, outhouses etc., at the rear of established properties. It is also a departure from the form of development already permitted along the laneway, which has taken place in an ad hoc fashion with a lack of consistency in terms of scale, proportions, height, finish, building lines etc. The area does not therefore have a clearly recognisable character and I consider that the proposed can be effectively accommodated into the site without detracting from the character of the laneway, the protected structure or the residential amenities of the conservation area.

The scale, height and bulk of the dwelling has been reduced from that previously proposed, resulting in a more compact form of development, which is more readily assimilated into its surroundings, without being unduly overbearing on surrounding residential properties. The scale of the front projection has also been reduced bringing it closer to the front building line of the adjacent property.

Whilst the footprint of the proposed house will extend across the full width of the site, it will be punctuated by a recessed glazed area along the eastern elevation, which will provide relief and address the concerns raised by the Board regarding the monolithic form of the previous proposal. With a floor area of 190 sq. m, on a site of 278 sq. m, both the plot ratio (0.68) and site coverage (36%) fall within acceptable parameters ensuring that overdevelopment of the site is not a concern.

In terms of the level of amenity that would be afforded to future residents there are a number of factors that need to be considered including internal space standards, access to sunlight and daylight, provisions of amenity space etc.

The main living areas of the house will be accommodated on the ground floor with bedrooms/reading area on the first floor. The development plan at section 16.10.2 refers to residential quality standards for houses and the requirement to comply with the '*Quality Housing for Sustainable Communities-Best Practice Guidelines*', published by the DoEHLG (2007). The proposal satisfies the space provision and room size requirements set out in Section 5.3 and each of the rooms will be adequately ventilated and have reasonable access to daylight, ensuring that an adequate level of residential amenity will be afforded to future occupants. In terms of



private open space, I note that 55 m<sup>2</sup> will be provided in the form of a garden to the rear, which complies with the development plan requirement of 50m<sup>2</sup> (10m<sup>2</sup> per of open space per bedspace). In qualitative terms, the space which will be enclosed by a stone wall, will be afforded a reasonable level of protection from overlooking by adjoining properties. The provision of 2 no. on site car parking spaces satisfies development plan requirements.

I consider that the proposal can be accommodated without impacting on the residential amenities of adjacent property. With a separation distance in excess of recommended guidance (22m) between opposing first floor rear windows, issues regarding overlooking do not arise. There are no windows in the side elevation (west) which would compromise the privacy of the adjacent dwelling. The appellant has raised issues regarding the window at first floor level in the east elevation. The window serves a landing/reading area, which is not considered to be a habitable room. The window is orientated to face the laneway and the rear of properties facing onto Grosvenor Place. Having regard to the significant separation distances (c.30m to first floor windows) between the properties and the nature of the space served by the window, I am not persuaded that it is necessary to provide opaque glazing to the window.

It is a requirement of the development plan (16.10.16) that if the main house is in multiple occupancy that the amount of private open space remaining after the subdivision of the garden for a mews development shall meet both the private open space requirements for multiple dwelling and for mew development. Whilst I am unable to clarify the number of apartments/bed spaces accommodated, I note that c. 95 sq.m will remain with the main house, which will ensure a reasonable level of residential amenity for the property.

## 8.0 **Appropriate Assessment**

- 8.1. Having regard to the location of the development within a built up area, the nature and scale of the development and the separation distance from Natura 2000 sites, I consider that the proposed development either alone, or, in combination with other plans or projects, would not be likely to have significant effect on any other European Site, in view of the sites conservation objectives and that, therefore, a Stage

Appropriate Assessment and the submission of a Natura Impact Statement is not required.

## **9.0 Recommendation**

- 9.1. Having considered the contents of the planning application, the decision of the planning authority, the provisions of the development plan, the grounds of appeal and the responses thereto, my inspection of the site and my assessment of the planning issues, I recommend that permission be granted for the development for the reasons and considerations set out below.

## **10.0 Reasons and Considerations**

Having regard to the location of the proposed development in a built up area and on a site zoned for residential purposes, the pattern of development in the area and the nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not detract from the character or setting of the Protected Structure or the character or amenities of the residential conservation area, would not detract from the visual or residential amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **11.0 Conditions**

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

2. Prior to commencement of the development a sample of the brick to be used on the external walls of the house, which shall be coloured light grey, shall be submitted to and agreed in writing with the planning authority.

**Reason:** In the interests of visual amenity.

3. Prior to commencement of any development on the site, the developer shall submit, for written agreement with the planning authority, a method statement with input from a professional with relevant conservation expertise, detailing proposals for the dismantling of the boundary wall along the eastern and southern site boundaries and proposals for the appropriate salvage and re-use of salvaged stone in the construction of the new boundary walls on the site.

**Reason:** To ensure that elements of the boundary wall is preserved.

4. The driveway entrance shall not exceed 3.6m in width and shall not have outward opening gates.

**Reason:** In the interests of traffic safety.

5. Water supply and drainage arrangement including the disposal of surface water shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interests of public health.

6. Site development and building works shall be carried out only between the hours of 07.00 am to 18.00 hours Monday to Fridays inclusive, between 08.00 to 14.00 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall be allowed only in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of adjoining property in the vicinity.

7. Prior to commencement of the development a Construction Management Plan shall be submitted to and agreed in writing with the planning authority. The plan shall include details of intended construction practice, proposals for traffic management, noise management and measures for off-site disposal of construction/demolition waste.

**Reason:** In the interests of amenities, public health and safety.

8. The developer shall pay to the planning authority a financial in respect of public infrastructure and facilities benefiting development in the area of the planning authority that it 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. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

9. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision satisfactory completion and maintenance until taken in charge by the local authority of services required in connection with the proposed development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion and maintenance of any part of the development. 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 Pleanala for agreement.

**Reason:** To ensure the satisfactory completion of the development.

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Breda Gannon  
Senior Planning Inspector

30th August 2017