



An
Bord
Pleanála

Inspector's Report ABP-300364-17

Development

PROTECTED STRUCTURE:

Construction of two houses with roof terrace each. Each site is a subdivision of the rear garden of 60 Kenilworth Square, Rathgar, Dublin 6, accessed off Garville Lane, with 1 carpark space per house. The development includes the sub-division of the existing site to allow for the construction of 2 mews, at the rear.

Location

60, Kenilworth Square, Rathgar,
Dublin 6

Planning Authority

Dublin City Council (South Area)

Planning Authority Reg. Ref.

3850/17

Applicant(s)

Fitzwilliam KS Ltd.

Type of Application

Permission.

Planning Authority Decision

Grant.

Type of Appeal

Third Party

Appellant(s)

John O Connor.

Observer(s)

Rathgar Residents Association.

Date of Site Inspection

08th of March 2018.

Inspector

Karen Hamilton

1.0 Site Location and Description

1.1. The subject site is located within the rear garden of No. 60 Kenilworth Square, a three storey protected structure which fronts onto Leicester Avenue, Rathgar, Dublin 6. The site is accessed to the rear along Garville Lane, which, in the most part has a continuous row of mews dwellings finished with a wide range of styles. The building line along the northern side of the lane is generally consistent with some dwellings staggered forward of adjoining dwellings.

2.0 Proposed Development

2.1. The proposed development would comprise of:

- Subdivision of the rear garden of No 60 Kenilworth, a Protected Structure, (2 by c. 133m²),
- Construction of two 3 storey, 3 bedroom mews dwellings with roof terrace (2 by 129m²),
- Provision of 1 car parking space and all associated works.

3.0 Planning Authority Decision

3.1. Decision

Decision to grant permission subject to 10 no conditions of which the following are of note:

C 5- Any works to the protected structure shall be carried out with input of specialist expertise from a conservation architect and in accordance with the national guidelines.

C 9- Noise Control during construction.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission and refers to the existing mews dwellings along Garville Lane, the compliance with the development plan and the submissions received.

3.2.2. Other Technical Reports

Roads and Traffic- No objections subject to conditions.

Conservation Officer- No objection.

Drainage Division- No objection subject to conditions.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

Five observations were submitted and the issues raised are summarised below:

- The proposed development is not in keeping with the surrounding area and not sympathetic to the heritage of the area.
- The ridge height is higher than adjacent buildings.
- The proposal represents overdevelopment and the building line is set forward of adjacent buildings.
- The design statement is untrue and there are other undeveloped sites along the lane.
- There is currently congestion along the lane and the proposal will add to this.
- The proposal will exceed the current sewerage capacity.

4.0 Planning History

Reg Ref 3854/17

Permission granted recently in February 2018 for extension and alterations to the main residence at 60 Kenilworth (a Protected Structure) (209 m²), to reinstate it as a single- family residence and the construction of a 3-storey extension (108 m²) to the rear, including an ensuite bedroom on each of two floors over a garden level kitchen

extension. This application has not been appealed and conditions of note include the input from a conservation expert during works.

5.0 Policy Context

5.1. Architectural Heritage Guidelines for Planning Authorities, 2004. Development guidelines for Protected Structures and Areas of Architectural Conservation.

5.2. Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007).

5.3. Dublin City Development Plan 2016-2022

The site is zoned in **Z2** “*To protect and/or improve the amenities of residential conservation areas*”.

Section 16.10.2 Residential Quality Standards – Houses

Section 16.10.16 Mews Dwelling. Development is confined to single family units, two storeys in height. There is a need to provide one off street carpark and sufficient rear open space. Minimum width of 7.5m and 15 m² per bed space of rear open space required. Minimum distance of 22m from rear building.

The subject site is a **protected structure** and within a residential conservation area and is the following policy of the development plan and guidance are relevant.

Policy CHC2: To ensure that the special interest of protected structures is protected.

Development will conserve and enhance Protected Structures and their curtilage and will: (a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest

Policy CHC4 & CH5: Conservation Areas: Development will not harm the features of special interest in the conservation areas or involve harm to loss of traditional fabric.

Appendix 24: Protected Structures and Buildings in Conservation Areas.

5.4. **Natural Heritage Designations**

None relevant.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal are submitted from a resident of a mews property to the east of the site and the issues raised are summarised below:

- The scale of development is visual obtrusive and not in keeping with the surrounding area.
- The proposed ridge line is higher (by 1.381m) than the adjoining properties.
- There are no other three storey mews along Garville Lane.
- The positioning of the dwellings are forward of the existing building line and will cause loss of light on the adjoining property.
- The treatment and height of the boundary wall has not been detailed and it is unclear if the wall is removed or altered.

6.2. **Applicant Response**

A response was submitted by agent on behalf of the applicant and is summarised below:

- The rear property is the final remaining undeveloped mews property along Garville Lane.
- The site is not typical of the surrounding sites.
- The older developments along the lane are 2 storey and the newer developments are 3 storey.
- The proposed ridge reflects the general ridge height along the lane.
- The proposed development complies with the guidance for mews dwellings in the development plan.

- The proposed development is in keeping with the surrounding area.
- There is no set design along the lane as the mews have been developed in a piecemeal fashion.
- The solid walls will ensure no overlooking.
- The 6m setback for parking is no longer a requirement of the development plan.
- It is proposed to build the wall over the boundary wall to prevent any gap and if this is not acceptable with the adjoining neighbour the applicant cannot trespass onto their property.

6.3. Planning Authority Response

None received.

6.4. Observations

An observation has been received from the Rathgar Residents Association and the issues raised are summarised below:

- The scale and design of the mews is out of keeping with the surrounding dwellings and not in keeping with the Z2 zoning objective.
- The ridge height is unacceptable, 1.5m above that established and will have a negative impact on visual amenity.
- The proposal is not in keeping with the building line along Garville Lane and a setback is required.
- The existing dwelling (3854/17) will be significantly altered and extended.
- The requirements for a separation distance of 22m should be retained.
- There is an issue with the boundary treatment around the site.

7.0 Assessment

7.1. The issues of the appeal can be dealt with under the following headings:

- Principle of development
- Built Heritage
- Impact on Visual Amenity
- Impact on Residential Amenity
- Appropriate Assessment

Principle of development

7.2. The proposed development includes the construction of two mews dwellings within the rear garden of a protected structure. The site is zoned for residential development in the current Development Plan and therefore subject to complying with other planning requirements as addressed in the following sections, the principle of the proposal is acceptable.

Built Heritage

7.3. The site is located on lands zoned Z2, residential conservation, and includes the construction of 2 mews dwellings in the rear garden of a protected structure. Planning permission 3854/17 was recently granted for the renovation and construction of a contemporary 3 storey rear extension (108m²) of the main dwelling along the front of the site, which included the reduction of the site for the proposed mews. This previous permission did not include any proposed boundary treatment separating the rear gardens.

7.4. CHC2 of the development plan provides guidance for appropriate development within the curtilage of protected structures where those features of interest should be conserved and enhanced. In addition, CHC4 & CHC5 provides similar guidance for developments within conservation areas, where features of special interest are to be preserved. A conservation report has been submitted with the application, providing a history of the protected structure and an inventory of the interior. The report lists the features of interest on the façade and interior of the building and refers to the separation of the rear site, new boundary wall and remaining garden and concludes

that the proposal will not have a negative impact on the character or setting of the protected structure.

- 7.5. The rear garden of No 60 Kenilworth is currently 1 ha, the proposed development will remove half of the garden (c. 500m²) and the remaining rear garden for No 60, in conjunction with the permitted rear garden, will be c. 240m², which is similar to sites in the immediate vicinity which also have mews dwellings to the rear. The applicant submits that the existing block wall will be replaced with a more appropriate stone wall, no details have been submitted although this can be included as a condition on any grant of permission. I note there is no objection from the Conservation Officer.
- 7.6. Having regard to the features of interest of the protected structure listed in the conservation assessment as the façade and the interior and the recent grant of permission for this dwelling, the location of the mews from the rear of the dwelling and the pattern of development in the immediate vicinity, I do not consider the proposed development would have a negative impact on the character and setting of No 60 Kenilworth or the setting of the conservation area.

Impact on Visual Amenity.

- 7.7. The 2 mews dwellings will be located between an existing row of mews along Garville Lane, which include an extensive range of designs and finishes. The mews dwellings at either side of the site are both 2 storey in height where the dwelling to the west is a contemporary style and the dwelling to the east is traditional. The grounds of appeal argue the proposed development is not in keeping with the character of the surrounding area and will have a negative impact on the visual amenity of the area.
- 7.8. Design and Layout: The proposed mews dwellings are located 5.7m from the edge of Garville Lane and three / two and half storey in height with a balcony along the façade on the second floor. As stated above the existing mews dwellings along the lane range in styles and I consider the contemporary façade with selected brick acceptable. Section 16.10.16 of the development plan provides guidance for new mews dwellings and states that these will be confined to two storeys or three in certain circumstances where there are apartments. The height of the ridge line is 44,651m which includes the dormer and balcony within the roof pitch on the second floor. The development description refers to a 3 storey dwelling although based on

the balcony within the roof design it may be considered a two storey dormer and there are no windows to the rear, A contextual design of the dwellings along Garville Lane has been submitted which illustrates higher dwellings to the west, which I have assessed and I noted No 48 along the lane was of a similar design which I do not consider have a negative visual impact on the surrounding amenity. I do not consider the height of the mews dwellings c. 1.5m above the ridge of the adjoining two storey dwellings would have a negative impact on the visual amenity. The provision of car parking and rear garden space complies with the required standards of the development plan.

- 7.9. Building Line: The building line is in keeping with the dwelling to the west, No 59a, and set c. 3m forward for the dwelling to the east, No 63a, which although slightly staggered, is a characteristic of mews dwellings along the most western section of Garville Lane and the location of the proposed mews will not adversely affect the current building line.
- 7.10. Size: The size of the dwellings (129m²) and room sizes comply with the minimum standards in Table 5.1 of the national guidelines '*Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities*' (2007) and are similar to those in the vicinity.
- 7.11. Therefore, having regard to the characteristics of the mews dwellings along the lane and in the immediate vicinity, I consider the design and layout of the mews dwellings complies with the national guidance and the development plan and would not have a negative impact on the visual amenity of the existing lane or on the residents of the adjoining properties.

Impact on Residential Amenity

- 7.12. As stated above, the site is located between two mews dwellings and to the rear of a detached three storey dwelling. The grounds of appeal argue the new proposed development will have a negative impact on the residential amenity of the adjoining residents. The impact of the overall scale and design has been addressed above, which I consider reasonable, therefore I do not consider the mews would have an overbearing effect on the surrounding area.
- 7.13. Overshadowing: The site is located c. 25m to the south of the main dwelling on the site and separated by a rear garden. The mews are set forward of the building line

with No 63a to the east of the site and may cause some overshadowing to the front of this dwelling in the late afternoon, although I do not consider this will have a significant negative impact on the amenity of the residents of this property.

- 7.14. Overlooking: The balcony on the second floor along the façade faces south and there is one recently granted two storey dwelling (c. 8m) on the opposite side of Garville Lane. The recently granted rear extension projects c. 9.2m into the rear garden of No 60 Kenilworth and there will be a separation distance between the proposed mews dwellings and the rear of the main dwelling c. 21m. Section 16.10.2 of the development plan requires a separation distance of 22m between opposing first floor windows. Therefore having regard to the location of the balcony along the south of the mews facing onto and the distance from the property along the south of Garville Road I consider there will be overlooking on this property which would have a negative impact on the amenity of the residents. I consider it reasonable to include a condition to remove this balcony from the overall design of the mews.
- 7.15. Boundary Wall: The appellant is concerned about the location of the dwelling in relation to the boundary wall along the east of the subject site which I note is c. 1.2m in height and runs directly adjacent to No 63 a. The floor plans illustrate the building directly adjacent to the adjoining dwellings and the applicant has stated in the response to the grounds of appeal that although this layout would be preferable it is subject to agreement with the adjoining property owners. I consider the boundary issues is a civil/legal matter, subject to separate statutory controls outside of the planning system, and I note that under section 34(13) of the Planning and Development Act 2000, as amended, a person shall not be entitled solely by reason of a grant of planning permission to carry out any development.
- 7.16. Having regard to the orientation of the site and the location and design of the proposed mews dwellings and subject to the removal of the balcony along the front, I do not consider the proposed development would lead to a significant negative impact on the amenity of the residents of the surrounding properties.

Appropriate Assessment

- 7.17. Having regard to the nature and scale of the proposed development within a serviced area and separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development

would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

Having regard to the pattern of development in the vicinity, including a variety of mews houses of differing external appearance along Garville Lane, the distance from the rear of the protected structure and the polices of the current Dublin City Development Plan, it is considered that the proposed development would not seriously injure the residential or visual amenity of the area and would not detract from the character or setting of the adjacent Protected Structure. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 in writing with the planning authority prior to commencement of development and the development shall be carried out and completed out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

(a) The balcony along the front of the dwellings shall be removed.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity.

3. The proposed boundary wall to the rear and between the gardens shall consist of a 2 m high block wall finished with natural stone on both sides to match the boundary wall along the side of the site, the exact height and location of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

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

Reason: In the interest of public health.

6. 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

Karen Hamilton
Planning Inspector
09th of March 2018