



An  
Bord  
Pleanála

## Inspector's Report ABP300808-18

---

<b>Development</b>	Construction of two-storey mews dwelling to rear of No. 8 Kenilworth Square North, Rathgar, Dublin 6 with access onto Kenilworth Lane. No. 8 Kenilworth Square North is a Protected Structure.
<b>Location</b>	Rear of No. 8 Kenilworth Square North.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	4278/17.
<b>Applicants</b>	Shane and Miriam Finnegan.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party -v- Grant.
<b>Appellants</b>	(i) Maureen and Andrew Bushe. (ii) Shane Johnson
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	21st May, 2018.
<b>Inspector</b>	Paul Caprani.

## Contents

1.0 Introduction.....	3
2.0 Site Location and Description .....	3
3.0 Proposed Development .....	3
4.0 Planning Authority’s Decision .....	4
5.0 Planning History.....	5
6.0 Grounds of Appeal.....	5
7.0 Appeal Responses.....	7
8.0 Further Submission on behalf of the Appellants .....	7
9.0 Development Plan Provision.....	8
10.0 Planning Assessment.....	10
11.0 Conclusions and Recommendation.....	13
12.0 Appropriate Assessment .....	13
13.0 Decision .....	13
14.0 Reasons and Considerations .....	13
15.0 Conditions .....	14

## 1.0 Introduction

ABP300808-18 relates to a third-party appeal against the decision of Dublin City Council to issue notification to grant planning permission for the construction of a two-storey mews house to the rear of No. 8 Kenilworth Square North, Rathgar, Dublin 6. The grounds of appeal argue that the proposed mews development will have an unacceptable impact on adjoining residential amenity.

## 2.0 Site Location and Description

- 2.1. The subject site is located on the northern side of Kenilworth Square in Rathgar to the south of Dublin City Centre. Kenilworth Square is a large Victorian square located to the immediate east of Harold's Cross Road approximately 3.5 kilometres south of the city centre.
- 2.2. Kenilworth Road comprises of rows of terraced two-storey over basement Victorian houses on long elongated plots. No. 8 is located on the northern side of the Square and faces southwards onto the square. The site backs onto a mews lane, Kenilworth Lane West. The depth of the overall site is just less than 60 metres and the site has a depth of just over 8 metres. The rear of the site is currently laid out as a private garden. Mews dwellings have been constructed at No. 6, 7, 9 and 10 Kenilworth Road. Kenilworth Lane which runs to the rear (north of the subject site) has a width of c.8 metres. No. 8 Kenilworth Road is a protected structure.

## 3.0 Proposed Development

- 3.1. Under the current application it is proposed to subdivide the rear garden in order to accommodate a new two-storey mews dwellinghouse to the rear of No. 8. The new mews dwelling is to be located centrally within the curtilage of the site. The new site to accommodate the mews dwelling is 22 metres in length. The proposed mews dwelling is to replicate the building line of the mews dwelling to the immediate east at No. 7 Kenilworth Lane. It is to accommodate a kitchen, living area and entrance hall together with a small toilet at ground floor level. First floor level is to accommodate

two large bedrooms with en-suite bathroom together with a storage and laundry area. The dwelling occupies a total area of 134 square metres. A rear garden of 40 square metres is to be provided as part of the proposal while a front garden area of c.35 square metres is also provided. The front garden area provides an off-street car parking space.

- 3.2. The proposed dwelling is to rise to a height of just over 7.5 metres and is to incorporate a selected brick finish on the front and rear elevation and is to incorporate a zinc roof finish with vertical standing scenes along the profile. The drawings submitted indicate that the existing stone rubble wall which divide the gardens to the rear of the houses on Kenilworth Road on either side of the mews dwellings are to be retained.

## 4.0 **Planning Authority's Decision**

### 4.1. **Decision**

- 4.1.1. Dublin City Council issued notification to grant planning permission subject to 9 conditions.
- 4.1.2. The planning application was received by Dublin City Council on 15<sup>th</sup> November, 2017. It was accompanied by a planning application form, public notice, planning fee etc. and a Conservation Statement. The Conservation Statement describes the existing building and it accompanied by a series of photographs which accompanying the detailed description of the existing house. The conservation report indicates that there is a more modern single-storey flat roof extension to the rear of No. 8.

### 4.2. **Observations**

- 4.2.1. A number of letters of objection were submitted in respect of the proposal expressing concerns in relation to the impact on adjoining amenity specifically in relation to impact on privacy, the overall height of the structure and potential impacts on adjoining gardens throughout overshadowing.

### 4.3. **Planning Authority Assessment**

- 4.3.1. A report from the **Engineering Department - Drainage Division** stated that there is no objection to the proposal subject to standard conditions.
- 4.4. A report from the **Roads and Traffic Planning Division** stated that there was no objection to the proposed development subject to four standard conditions. Condition No. 1 required that the vehicular entrance shall not have outward opening gates.
- 4.5. The **Planner's Report** notes that the principle of mews development has been established along the rear laneway. The proposed development provides for a substantial mews with sufficient open space and off-street car parking. The proposed design of the mews is contemporary and this is considered acceptable. It is also considered that the proposed height of the mews is acceptable and the design complies with open space provisions set out in the plan. It is considered that the proposal would not negatively impinge on surrounding residential amenity and is therefore considered to be acceptable. The planner's report therefore recommended that planning permission be granted subject to 9 conditions. Dublin City Council granted permission on 11<sup>th</sup> January, 2018.

## 5.0 **Planning History**

The planner's report states that there is no relevant planning history over the previous 15 years. The report by the Roads and Traffic Planning Division states that permission was granted by An Bord Pleanála for a two-storey mews dwelling to the rear of Kenilworth Road under Reg. Ref. 3915/00 (the Board will note that no An Bord Pleanála reference is referred to in this report).

## 6.0 **Grounds of Appeal**

The decision of Dublin City Council to issue notification to grant planning permission was the subject of two no. third party appeals which are summarised below.

### 6.1. **Appeal by Mr. Shane Johnson**

- 6.1.1. The grounds of appeal state that the appellant, who lives at No. 9, is not opposed to the building of a mews house on the subject site. However, the appellant has a number of reservations.

- 6.1.2. It is stated that the shared boundary wall between No. 8 and No. 9 is composed of a granite rubble stone wall which is an original part of the curtilage of the protected structure. This wall is largely intact and in good condition. There are anomalies and omissions in the drawings which make no reference to the demolition of a substantial part of this wall. Furthermore, the Conservation Statement submitted with the application makes no reference to the demolition of what is essentially part of the curtilage of the protected structure. It also appears that no consultation appears to have been made with Dublin City Council's Conservation Architects notwithstanding the fact that the proposal relates to a protected structure. The appellants seek retention in full of the existing shared stone boundary wall as part of any grant of planning permission issued by the Board.
- 6.1.3. There appears to be little consideration as to how the proposed new stepped gable will interface with the angled roof profile or how the existing gutters are proposed to be accommodated on the subject site. It is requested that a condition be attached which requires that no development shall overhang or otherwise physically impinge on any adjoining property except with the written agreement of the owners thereof.
- 6.1.4. It is argued that the roof profile is visually unsatisfactory on both the north and south elevations and it is suggested that omitting the stepped form of the gable end would be a far more visually acceptable solution.

## **6.2. Appeal on behalf of Maureen and Andrew Bushe.**

- 6.2.1. This grounds of appeal was submitted by Peter White and Associates Architects. The grounds of appeal state that the appellants live in the adjoining mews dwelling at No. 7. Concerns are expressed with the overall size and scale of the proposed mews dwelling as it will have an overbearing impact on the rear garden of No. 7 particularly in terms of blocking daylight and sunlight. The house would project beyond the back wall by 1.6 metres. Concerns are expressed in relation to the visually dominant form of the proposed roof.
- 6.2.2. It is argued that the proposed two-storey mews dwelling may become three bedrooms in the future which would require a commensurate increase in private open space which is not available. Reducing the footprint of the house would allow a larger back garden. Concerns are also expressed that the proposed development would not physically impinge or overhang any adjoining property.

- 6.2.3. It is acknowledged that a suitable mews house development would be appropriate at this location. However, it is suggested that a house of reduced size of scale would be more acceptable.

## **7.0 Appeal Responses**

### **7.1 Applicant's Response to Grounds of Appeal**

- 7.1.1. In relation to the third-party appeal lodged on behalf of Mr. Shane Johnson, it is stated that the applicants have amended the design to ensure that the building will be constructed within the site boundary and this is indicated in the revised drawings submitted with the appeal. The drawings submitted indicate that the house will be constructed entirely within the site boundary and will not incorporate a stepped back gable between the common boundary of No. 8 and No. 9, as originally proposed.
- 7.1.2. In respect of the other third-party appeal, it is acknowledged that the design does project beyond the rear elevation of No. 7 Kenilworth Lane West. However, the proposed house would be to the north-west of the appellants' property and there is a lot of precedent for this type of development on the lane. Furthermore, Kenilworth Lane is characterised by a variety of roof types and profiles and photographs are submitted indicating examples of various types of roof profiles along Kenilworth Lane West. The applicant has no intention to add a third bedroom on the subject site and there is no intention that the roof/eaves of the proposed house will overhang the contiguous property.

### **7.2 Dublin City Council's Response to the Grounds of Appeal**

It appears that Dublin City Council have not submitted a response to the grounds of appeal.

## **8.0 Further Submission on behalf of the Appellants**

- 8.1. Peter White and Associates submitted a further response on behalf of Maureen and Andrew Bushe (No. 7 Kenilworth Lane West) on 4<sup>th</sup> April, 2018.
- 8.2. Concern is still expressed that maximising the house area on the east side will damage the appellants' amenities. It is considered that the overall size and scale of the building will diminish the appellants' access to daylight and sunlight. It is argued

that the footprint of the building should be stepped back to align with No. 7. While the various precedents in roof profiles are noted, it is suggested that many of these profiles which were permitted along Kenilworth Lane are quite unpleasant and inappropriate. In the case of the subject site, permission should only be granted where it adds to the area and does not become an obtrusive imposing building which detracts from the amenities of the area.

## 9.0 Development Plan Provision

- 9.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022.
- 9.2. The zoning objective relating to the site is land use zoning objective Z2 "*to protect and/or improve the amenities of residential conservation areas*". The house in question is a protected structure.
- 9.3. Chapter 5 of the Development Plan specifically relates to housing. Policy QH5 seeks to promote residential development addressing any shortfall in housing provision to active land management and a coordinated planned approach to developing appropriately zoned land at key locations including regeneration areas, vacant sites and underutilised sites.
- 9.4. In terms of Conservation Areas, Dublin City Council seek to ensure the development proposals within all Architectural Conservation Areas and conservation areas complement the character of the area and comply with development standards.
- 9.5. Specific policies in relation to mews dwellings are set out below.
  - (a) Dublin City Council will actively encourage schemes which provide a unified approach to the development of residential mews lanes and where consensus between all property owners has been agreed. This unified approach framework is the preferred alternative to individual development proposals.
  - (b) Development will generally be confined to two-storey buildings. In certain circumstances three-storey mews developments incorporating apartments will be acceptable where the proposed mews is subordinate in height and scale to the main building and where there is sufficient depth between the main building and the proposed mews building to ensure privacy, where an



acceptable level of open space is provided and where the laneway is suitable for resulting traffic conditions and where the apartment units are a sufficient size to provide a high quality residential environment. This is in line with national policy to promote increased residential densities in proximity to the city centre.

- (c) Mews buildings may be permitted in the form of terraces but flat blocks are not generally considered suitable in mews laneway locations.
- (d) New buildings should complement the character of both the mews lane and main building with regard to scale, massing, height, building depth, roof treatment and materials. The design of such proposals should represent an innovative architectural response to the site and should be informed by the established building lines and plot width.
- (e) The amalgamation or subdivision of plots on mews lanes will generally not be encouraged. The provision of rear access to the main frontage premises shall be sought where possible. All parking provision in mews lanes will be in off-street garages, forecourts or courtyards. One-off street car parking space should be provided for each mews building subject to conservation and access criteria.
- (f) New mews development should not inhibit vehicular access to car parking space at the rear for the benefit of the main frontage premises, where this space exists at present. The provision will not apply where the objective to eliminate existing unauthorised and excessive off-street car parking is being sought.
- (g) The potential mews laneways must have a minimum carriageway of 4.8 metres in width and 5.5 metres where no verges or footprints are provided. All mews lanes will be considered to be shared surfaces and footpaths need not necessarily be provided.
- (h) In terms of private open space such space shall be provided to the rear of a mews building and shall be landscaped so as to provide a quality residential environment. The depth of the open space for the full width of the site will not generally be less than 7.5 metres unless it is demonstrably impractical to achieve and shall not be obstructed by off-street parking. Where the 7.5

metres standard is provided, the 10 square metre of private open space per bedspace standard may be relaxed.

- (i) If the main house is in multiple occupancy, the amount of private space remaining after the subdivision of the garden for mews development shall meet both the private open space requirements for multiple dwellings and for mews developments.
- (j) The distance between opposing windows of mews dwellings and the main house shall generally be a minimum of 22 metres. This requirement may be relaxed due to site constraints. In such cases innovative and high quality design will be required to ensure privacy and to provide an adequate setting, including amenity space for both the main building and the mews dwelling.

Chapter 16 of the development plan sets out details of development standards. Standards are contained for minimum floor areas for dwellings, requirements for natural lighting and ventilation, private open space standards, safety and security and acoustic privacy. These standards will be referred to where relevant in my assessment below.

## 10.0 Planning Assessment

10.1. I have read the entire contents of the file, visited the site and its surroundings and have had particular regard to the issues raised in the grounds of appeal. I consider the principle of mews development to be acceptable on the subject site having regard to the precedent of similar type developments along Kenilworth Lane West. It is apparent from my site inspection and from the site location map that the majority of sites on Kenilworth Square North have developed mews dwellings within the curtilage of the dwellings. I further consider that the proposal generally complies with the requirements for mews developments as set out in the development plan in that the site is of sufficient size to accommodate a mews dwelling. The laneway serving the mews dwelling is of sufficient width to cater for traffic associated with the development and the applicant has complied with the minimum open space standards and the provision of off-street car parking etc. in accordance with the requirements of the development plan. I further note that An Bord Pleanála previously granted planning permission for a mews development on the subject site

back in 2002. The Board therefore can restrict its deliberations to the issues raised in the grounds of appeal namely:

- The Overall Size and Scale of the Proposed Dwellinghouse
- The Roof Profile of the Proposed Dwelling
- Impact in terms of Overshadowing
- A Common Boundary Wall
- The Proposed Gable Arrangements between Nos. 8 and 9 Kenilworth Road

#### **10.2. The Overall Size and Scale of the Proposed Dwellinghouse**

Concerns are expressed in the grounds of appeal that the overall size, scale and footprint of the building is inappropriate and should be scaled back in order to protect the amenities of the adjoining properties. The building occupies an area of 134 square metres which cannot be considered excessive for a two-storey dwelling. What is proposed in this instance is a two-bedroomed dwelling and it is appropriate that sufficient living accommodation is afforded to the occupants of the dwelling. While the footprint of the dwelling does extend beyond the rear building line of No. 7 Kenilworth Lane, the additional depth of the building is less than 2 metres and in my view will not have a significantly dominant or overbearing effect on the occupants of No. 7 Kenilworth Lane. I note that the rear building line of the proposed mews development reflects the maximum rear building line of the adjoining dwelling to the west No. 9 Kenilworth Lane. I further note that there are significant variations in terms of the footprint of mews dwellings on Kenilworth Lane and the footprint of the proposed development cannot be considered incongruous or inappropriate in this context.

#### **10.3. The Roof Profile of the Proposed Dwelling**

With regard to the roof profile, the applicant has indicated and provided evidence in the response to the grounds of appeal that there is a large variation in roof profile in the mews dwellings at Kenilworth Lane. The roof profile does not extend significantly above the ridge height of the adjoining mews dwellings. The drawings submitted indicate that the roof profile extends less than half a metre above the ridge heights of the adjoining dwellings. The overall roof height is subordinate to the main dwelling at No. 8 Kenilworth Road and will not be visible from public vantage points within

Kenilworth Square. Having regard to the variety of roof profiles in the mews dwellings along Kenilworth Lane together with the fact that the roof profile is not significantly higher than adjoining roofs, I do not consider that the roof profile in this instance adversely impacts on the visual amenities of the area.

While the proposed development does incorporate a more contemporary design approach than contiguous mews dwellings, I note that the development plan permits innovative architectural responses such as that proposed. The fact that mews dwellings are located on laneways to the rear of the main houses I consider that there is greater scope to provide a variety of architectural styles along the laneways in locations governed by the Z2 zoning.

#### **10.4. Impact in terms of Overshadowing**

With regard to the issue of overshadowing, the fact that the proposed new dwelling extends c.2 metres beyond the building line to the contiguous dwelling at No. 7 will have a negligible increase in terms of reducing daylight and sunlight. Both the gardens at No. 7 and No. 8 are south facing and therefore will enjoy significant levels of sunlight penetration. Some increased shadow casting may occur during the late evening time along the rear elevation of No. 7. However, any reduction in sunlight penetration should be balanced against the reasonable expectation that the applicant be permitted to construct a dwelling of sufficient size to cater for family requirements. With this in mind, I consider that the marginal increase in overshadowing which would occur would be acceptable. Mews developments by their nature are located in built-up urban areas and will undoubtedly give rise to some level of increased overshadowing as a result of site development. The increased levels of overshadowing that would occur in this instance in my view would be negligible and therefore acceptable.

#### **10.5. Common Boundary Wall**

Issues raised in the grounds of appeal with regard to the protection of the integrity of the granite wall along the common boundary of No. 8 and No. 9 can be adequately dealt with by way of condition.

#### **10.6. The Proposed Gable Arrangements between Nos. 8 and 9 Kenilworth Road**

I note that the applicant has submitted revised drawings which omitted the stepped gable end of the dwelling between No. 8 and No. 9. The revised drawings submitted

in my view represent an adequate response to address concerns in relation to successfully resolving the visual issues arising from the treatment of the western gable of the dwelling. It also permits the retention and protection of the historic wall between Nos. 8 and 9 and also ensures that no overhanging occurs along the common boundary. I suggest that the Board include a condition or conditions to ensure that the appellants' concerns in relation to these issues are adequately addressed.

## **11.0 Conclusions and Recommendation**

Arising from my assessment above, I consider the overall design of the mews dwelling to be acceptable and will not result in a visually incongruous addition in the context of existing mews dwellings along Kenilworth Lane. I further consider that the proposed new dwelling will not have a significant or material impact on adjoining residential amenity particularly in terms of overshadowing and I therefore recommend the decision of Dublin City Council be upheld in this instance and that planning permission be granted for the proposed development.

## **12.0 Appropriate Assessment**

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity 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 a European site.

## **13.0 Decision**

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

## **14.0 Reasons and Considerations**

Having regard to the residential zoning objective for the area and the pattern of development in the vicinity including the development of mews dwellings on

contiguous sites, I consider that subject to conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 15.0 Conditions

1. The development shall be carried out in accordance with the plans and particulars lodged with the planning application as amended by the further plans and particulars received by An Bord Pleanála on 27<sup>th</sup> February 2018, 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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Prior to the commencement of development, the applicant shall submit details for the written agreement with the planning authority as to how it is proposed to protect and maintain the granite rubble stone wall which runs along the common boundary between Nos. 8 and 9 Kenilworth Square North.

**Reason:** In the interest of architectural heritage.

3. Water supply and drainage arrangement, including the attenuation and 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.

4. Any works to the protected structure including boundary walls shall be carried out with the input of specialist expertise in the form of a conservation architect and shall be carried out in accordance with the

requirements of the Architectural Heritage Protection Guidelines and any other advice issued by the Department of Arts, Heritage and the Gaeltacht.

**Reason:** To safeguard the special architectural interest of the protected structure.

5. Prior to the commencement of development, details of materials, colours and textures of all external finishes to the proposed mews dwelling shall be submitted to the planning authority for written agreement.

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

6. The mews dwelling shall be used as a single dwelling unit only.

**Reason:** To ensure that the development will not be out of character with existing residential development in the area.

7. No part of the development shall overhang or otherwise physically impinge upon any adjoining property save with the written agreement of the owners thereof. Failing such an agreement the proposed development shall be reduced in extent only insofar as necessary to ensure that it is located entirely clear of adjoining property.

**Reason:** To ensure a satisfactory standard of development.

8. The applicant shall comply with the requirements of the Roads and Traffic Department specifically in respect of the following:

- The vehicular entrance shall not have outward opening gates.
- Prior to the commencement of development and on the appointment of a contractor, a construction management plan shall be submitted to the planning authority for written agreement. This plan shall provide details of the intended construction practice for development including traffic management, hours of working, noise management measures and off-site disposal of construction/demolition waste.
- All costs incurred by Dublin City Council including any repairs to the public road and services necessary as a result of the development shall be at the expense of the developer.

**Reason:** In the interest of the proper planning and sustainable

development of the area.

9. Site development works and building works shall be carried out between the hours of 7 a.m. to 6 p.m. Monday to Friday, 8 a.m. to 2 p.m. Saturday and not at all on Sundays or Public Holidays. Deviations from these times will only be only 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.

10. The naming and numbering of the proposed dwelling unit shall be in accordance with the requirements of the planning authority prior to the occupation of the dwelling.

**Reason:** In the interest of orderly street numbering.

11. The developer shall pay to the planning authority a financial contribution of €11,578 (eleven thousand five hundred and seventy-eight euro) 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. 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.

---

Paul Caprani,  
Senior Planning Inspector.

21st May, 2018.