



An
Bord
Pleanála

Inspector's Report ABP-303101-18

Development

PROTECTED STRUCTURE:

Construction of 2 no semi-detached mews dwellings.

Location

1 Kenilworth Lane West, to the rear of 1 Kenilworth, square north, Dublin 6.

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

3888/18

Applicant(s)

Lisa Connellan

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Tadhg Sugrue

Observer(s)

None

Date of Site Inspection

18th of February 2019

Inspector

Karen Hamilton

1.0 Site Location and Description

- 1.1. The subject site is within the rear garden of a three storey over basement protected structure at No 1 Kenilworth Square North, Dublin 6. The rear of the site is accessed along Kenilworth Lane West and there is a single storey garage which fronts directly onto the lane.
- 1.2. There is a significant number of mews dwellings along Kenilworth Lane west although those properties adjoining the site to the east and west have retained rear access. Parking is along the existing laneway on the opposite side of the site to the rear of dwellings which front onto Effra Road.

2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
 - Demolition of single storey outbuilding,
 - Construction of 2 no. semi-detached 3 storey, 3 bedroom mews dwellings (105m² each),
 - All associated works including off-street parking, landscaped gardens and screened terraces on the second floor.

3.0 Planning Authority Decision

3.1. Decision

Decision to grant permission subject to 13 no. conditions of which the following are of note:

C 4- The roof terraces to bedroom 3 of each dwelling are to be permanently omitted and a revised treatment and window to each bedroom to be provided.

C 5- Submission of conservation information including details of works to boundaries, new gates and compliance with best practice.

C 8- Submission of house naming.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The report of the area reflects the decision to grant permission and refers to the following:

- The development plan standards for infill sites and new mews dwellings.
- Impact of the proposed development on the amenity of those residents in the vicinity of the site.
- The scale of the development.
- Impact of the proposal on the protected structure and conservation area.

3.3. Other Technical Reports

Traffic Division- No objection subject to conditions.

Conservation Officer- No objection to proposal.

Drainage Department- No objection subject to conditions.

3.4. **Prescribed Bodies**

None received.

3.5. **Third Party Observations**

One submission was received from the appellant and the issues raised are the same as those within the grounds of appeal.

4.0 **Planning History**

Reg Ref 0598/91

Permission granted to the main dwelling to erect a bedroom extension to front/side above entrance hall.

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** , residential conservation, where it is an objective “*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**, therefore 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 of relevance to the proposed development.

5.5. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted a resident of the property along Effra Road on the opposite side of Kenilworth Lane, with rear access, and the issues raised are summarised as follows:

Separation Distance

- Kenilworth Lane cannot accommodate mews developments along both sides.
- The rear gardens of the dwellings along Effra Road are not long enough to accommodate mews dwellings.
- All mews development has taken place along the south side of the lane as those dwellings along Kenilworth Road have larger gardens.
- In traditional mews dwellings one mews dwelling would face onto another.
- Many mews dwellings look into the rear gardens of the properties along Effra Road.
- The proposal has a significant negative impact on the residential amenity.
- The planning officer notes the first floor separation distance as 23m although the distance from the rear of the boundary is only 10m which is more appropriate.
- The report of the planner refers to the rear return of No 30 Effra and there is concern the mews dwelling will have a negative impact on any future expansion on this site.
- Plans to expand No 30 Effra within the exempt development will mean that the separation distance is less than the required 22m.

Impact on the Protected Structure

- The separation distance between the subject site and the rear of the protected structure is less than 22m.
- The proposed mews dwelling will be higher than the remaining mews on the lane.
- The relationship between the mews and the protected structure is not appropriate
- The application is accompanied with a Historic and Architectural Heritage Impact Assessment and no particular conservation expertise is listed by the author.
- The conservation officer reports no objection to the proposal although considered the proposed PV/ solar panels on the rear elevation of the mews are incongruous and would affect the character and setting of the protected structure.
- The assessment does not refer to the scale or design of the proposal or the 3d visuals submitted.
- Policy 16.2.2.2 of the development plan provides guidance for infill development and requires any proposal to positively contribute to the character and appearance of the area. Based on the lack of separation distance, subdivision of a historic plot along Kenilworth and location within the curtilage of a protected structure, the proposal does not support the policy.
- A greater set back from the lane is requested.

6.2. Applicant Response

A response to grounds of appeal was submitted by the applicant and the issues raised are summarised as follows:

- Consideration was given, in the design of the mews, to the separation distance from the protected structure and rear of dwellings along Effra Road.
- A drawing is included, based on the ordinance survey maps, in the response to indicate the separation distances.

- The proposed mews is 29m from the rear wall of the main dwelling.
- The width of the laneway varies between 6.3m and 6.4m.
- The proposed mews will be set back 3.7m from the boundary on the first floor.
- The appellant does not include the boundary thickness in the submission calculations.
- The set back to the rear annex return is 17m although the gable end is blank.
- The rear of No 31 Effra is screened with the existing boundary wall along the lane and should the appellant development in their site the extension will be overshadowed by the existing wall.
- There is no succinct pattern of development along Kenilworth lane.
- Where plots have been developed, they provide animation.
- The setting back of the mews dwelling from the lane will ensure it is not overbearing.
- A reinstated rubble wall will be established along the laneway.
- The gates for the access will ensure the solid nature of the boundary wall is retained.
- The increase of two cars will not have a significant impact on the movement of traffic.

Impact on the protected structure.

- Condition No. 4 of the grant of permission requires the removal of the third floor roof terrace, to prevent any negative impact on the protected structure.
- The proposed mews interprets the character of the traditional mews coach houses.
- The proposal is not 3 stories in height, it is 2 stories with a habitable attic roof space.
- A conservation impact assessment was included in the application.
- Condition No. 5 requires the submission of record surveys and observation requirements.

- Reference is made by the applicant and the Conservation Officer to the PV/Solar panels in order to comply with Part L of the building regulations and every attempt has been made in the design stage to integrate the panels into the design.

6.3. **Planning Authority Response**

None received.

6.4. **Observations**

None received.

7.0 **Assessment**

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

- Impact on Residential Amenity
- Impact on the Built Heritage
- Access
- Appropriate Assessment

Impact on Residential Amenity

7.2. The proposed development includes the removal of a single storey garage to the rear of the existing dwelling, facing onto Kenilworth Lane west, and the construction of two new 2 storey mews dwellings. The grounds of appeal are submitted from the residents of the property along Effra Road which back onto Kenilworth Lane, to the north of the site who are concerned the mews dwelling will have a negative impact on their residential amenity and are particularly concerned with the separation distance and potential for overlooking into the rear of their property. I have assessed the impact on the residential amenity below and the visual impact is addressed below in regard to the built heritage.

7.3. Overlooking: Section 16.10.16 of the development plan requires a 22m separation distance from the opposing windows of the mews dwelling and the main houses. The proposed mews is located to the south of No 30 Effra Road, on the opposite side of Kenilworth Lane, and the front of the mews dwelling is located c. 17m from the rear

return of the appellant's dwelling and c. 26m from the rear building line. The grounds of appeal consider this distance is not sufficient to prevent any overlooking into their property. I note the absence of any windows on the southern gable of the appellant's dwelling and consider the separation distance is reasonable and I do not consider the proposal will cause any significant overlooking on the appellants property. The grounds of appeal are also concerned the separation distance will be further reduced should they execute their exempted development rights for an additional 40m² at the rear of their property. In this regard, I note the separation distance refers to opposing first floor windows and I do not consider the policies of the development plan preclude proposals in the vicinity of the site and new developments will be assessed on a case-by-case basis on their own merits.

- 7.4. The rear of the mews dwelling is located c. 25m from the main dwelling along No. 1 Kenilworth Square North and condition No 4 requires the removal of the roof terraces to bedroom 3 on the third floor, which I consider reasonable to prevent any excessive overlooking on the private amenity space.
- 7.5. Overbearing: The mews dwellings will be located at the end of the garden of No. 1 Kenilworth Square North. The dwellings are set back 4.5m from the edge of Kenilworth Lane west behind a 2.7m high boundary with vehicular gate. The dwelling is further screened from the rear of those properties along Effra Road by their own similar rear boundary treatment. Whilst I note the dwellings are utilising the attic space, I consider the design remains similar to a 2 storey traditional mews which will be not of such a magnitude to have an overbearing impact on either the living space or the rear amenity space of the adjoining dwellings, as discussed above. In addition, attention is drawn to section 16.10.12 of the development plan which advocates the use of mews dwellings in line with national policy to promote increased residential densities in proximity to the city centre.
- 7.6. Overshadowing: The subject site is to the rear (south) of the appellant's dwelling. The 2 storey mews dwellings (height c. 6.3m) will replace a single storey garage and is set back c. 4m from the edge of Kenilworth Lane west. As stated above, the separation distance between proposed mews and the rear of the appellant's site is c. 26m from the rear building line and c. 17m from the rear annex. Having regard to the height of the proposed mews, the setback from the existing lane and the separation distance from the rear of those dwellings along Effra Road, I do not consider any

overshadowing will have a significant negative impact on the residential amenities of the residents in the vicinity.

- 7.7. Open Space: Section 16.10.16 of the development plan requires the provision of a minimum width of 7.5m and 15m² per bed space for mews dwelling, in the case of main dwelling private open space standards in the development plan must be complied with. The proposed mews dwelling has 30m² of private amenity space with 11m² provided as a terrace on the third floor. As discussed above it is considered the terrace will have a negative impact on the residential amenity of the main dwelling along No 1 Kenilworth Square North and therefore a condition to remove this terrace is recommended. The provision of c. 30m² open space would provide insufficient amenity space for a three bedroom mews dwelling, therefore, I consider a reduction in the bedroom numbers is necessary to comply with the development plan standards and the attic space should not be used as a bedroom. I consider it reasonable to include this requirement as a condition.
- 7.8. Having regard to the separation distances and the location and the size and scale of the proposed mews I consider the proposed development would not have a significant negative impact on the residential amenity of residents along Effra Road or in the vicinity of the site.

Impact on Built Heritage

- 7.9. No. 1 Kenilworth Square North is a protected structure and is located on lands zoned as Z2, residential conservation. The appeal site is set within the curtilage of the site and the proposed development includes the subdivision of the rear garden and demolition of a single storey garage (60m²) at the end of the rear garden, facing onto Kenilworth Lane West and the construction of two 2 storey mews dwellings. The impact of both the removal of the garage and construction of the mews, on the built heritage, are addressed separately below.
- 7.10. Demolition of garage: Guidance is provided in Section 3.10.2 of the Architectural Heritage Guidelines for Planning Authorities for demolition of structures and buildings in Architectural Conservation Areas and protected structures. Where it is proposed to demolish a structure, the features of special interest must be assessed and the impact of the replacement on the character of the area. With this in mind I have assessed the features of interest of the current outbuilding. A Conservation

Impact Assessment accompanied the application with photographic evidence to indicate a minimal amount of original fabric remaining (boundary walls). I note the modern design and materials used in the garage and I consider it is justifiable to demolish the structure where the replacement is of a high architectural quality and does not affect the character and setting of the main house.

- 7.11. Design: Each mews dwelling is 105m², has a traditional two storey coach style with slated pitched roof and brickwork and cladding external finishes. The grounds of appeal consider both the location and design of the mews is inappropriate and will have a negative impact on the setting of the protected structure.
- 7.12. The conservation report accompanying the planning application and refers to the use of a design similar to original coach mews and the garden to be retained and does not consider the new structure will have not be impacted.
- 7.13. Section 16.10.16 of the development plan provides guidance for mews dwellings where new buildings are restricted to 2 storeys and the design should complement the character of the main building with regard to scale, massing, height, building depth, roof treatment and materials. In addition, CHC 2 requires new development to protect or, where appropriate, restore form, features and fabric with contribute to the special interest.
- 7.14. Kenilworth Lane is characterised by a mix of both mews dwellings and outbuildings associated with the protected structures. The location, scale and depth of the mews set back from the edge of Kenilworth Lane is in keeping with the pattern of development along the lane which I consider is a valuable feature which contributes to the character of the conservation area. Whilst the mews dwelling is not in keeping with the footprint of the outbuilding, having regard to the inclusion of a 2.7m boundary wall, separation distance from the adjoining main residence, the dimensions and scale of the mews, I consider the proposal respects the surrounding pattern of development and therefore does not have a negative impact on the built environment.
- 7.15. Boundary Wall: The proposal includes the removal of the eastern boundary and rubble wall to accommodate the new mews dwelling. The submitted conservation impact assessment states a large portion of the wall has been built over to accommodate the outbuilding, where any historic fabric would be reused for a re-

established boundary wall. The report of the Conservation Officer recommended the submission of a photographic survey of the boundary walls and the submission of all details of the proposed new walls in order to consider the re-use of the materials. Detailed plans and particulars on the re-use of potential historic materials are absent from the proposal and considering the minor scale and nature of the remaining original fabric I consider a condition is reasonable to address this issue.

- 7.16. PV/ solar panels: The proposal includes 3 no. solar panels on the rear of the roof, c. 3m² in total. The report of the Conservation Officer recommended consideration of the removal of these solar panels. I note no condition was included requiring this removal and considering the size of these panels along the rear roof profile, I do not consider they would have a negative impact on the surrounding area or the protected structure.

Access

- 7.17. The proposed mews dwellings integrates one car parking space each on the ground floor, accessed directly from Kenilworth Lane. Section 16.10.16 of the development plan includes a requirement for one car parking space to be provided off-street, which the proposal complies. The report of the area planner notes the width of the laneway at 7m wide, where the development plan requires a minimum width of 4.8m and considered the overall proposal acceptable. Therefore, having regard to the width of the lane and the design of the proposal it is considered the access and parking is acceptable.

Appropriate Assessment

- 7.18. 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 Z2, residential conservation zoning objective, the pattern of development in the vicinity, and the scale and nature of the proposed development and the policies of the current Dublin City Development Plan 2016-2022, it is considered that subject to compliance with the conditions below, the proposed development would not seriously injure the residential or visual amenity of the area or have a negative impact on the character and setting of the 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 roof terrace to bedroom 3 of each dwelling shall be omitted and shall be replaced by a rooflight, located within a revised roof treatment, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To prevent overlooking of adjoining residential property

3. The proposed development shall be amended as follows:
 - (a) The proposed third floor bedroom shall not be used as a bedroom.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 and residential amenity.

4. Prior to commencement of development, the developer shall provide for the following:-

(a) The appointment of a conservation expert, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.

(b) Identification of the historic walls on the site and submission of survey drawings and photographic evidence for all existing boundary walls and a detailed schedule of any repair and reinstatement works that shall be undertaken to the original boundary walls. A method statement for the raking out and re-pointing of the stonework and associated repair details are to be provided along with details of the historic stone coursing, sizes of stone as well as mortar composition and colour to be provided. Full details for the proposed new works to the boundary walls of the site including junctions with the existing side boundary (original garden) walls.

(c) The submission of details of all finishes and of all existing original features to be retained and reused where possible, including interior and exterior fittings/features.

All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

Reason: To ensure that the integrity of the historic structures is maintained

and that the structures are protected from unnecessary damage or loss of fabric.

5. Water supply and drainage arrangements, 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

6. 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.

7. 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

06th of March 2019