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Bord  
Pleanála

## Inspector's Report 303633-19

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<b>Development</b>	Protected Structure: Demolition of side extension, erection of a new extension and internal and external refurbishment.
<b>Location</b>	88 Kenilworth Square, Rathgar, Dublin 6
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	4389/18
<b>Applicant(s)</b>	Stuart & Helen Hickey
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Liam O'Buachalla
<b>Observer(s)</b>	1. John Fegan 2. Rathgar Residents Association 3. Philip O'Reilly
<b>Date of Site Inspection</b>	3 <sup>rd</sup> May 2019
<b>Inspector</b>	Irené McCormack

## 1.0 Site Location and Description

- 1.1. The subject site is located on the corner of Kenilworth Square East and Kenilworth Road 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.
- 1.2. Kenilworth Square comprises of rows of terraced two-storey over basement Victorian houses on long elongated plots. No. 88 is located on the north-eastern side of the Square and faces west onto the square. The site is a corner site with a large side garden. No. 88 Kenilworth Road is a protected structure
- 1.3. The site has been subdivided in the past and the rear accommodates a single storey dwelling no. 88A with a single storey garage and pedestrian entrance into Kenilworth Square North.

## 2.0 Proposed Development

- 2.1. The development will consist of the demolition of the existing non-original single storey side extension situated on the northern elevation of the main dwelling at upper ground floor level and construction of a replacement two storey over lower ground floor level contemporary style side extension on the northern elevation with external balcony at entrance level and roof light over first floor. Internal and external refurbishment, repairs and alterations to the existing two storey, general conservation works to windows, joinery and plasterwork. The proposal also includes landscaping works and all other ancillary and drainage works necessary to facilitate the development.
  - 2.1.1. The proposed extension is a flat roof structure over three floors at a height of just over 8.9 metres. The external finishes incorporate a selected brick and perforated aluminium cladding. The drawings submitted indicate that the existing stone rubble wall which divides the front and side garden is to be retained.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. Dublin City Council issued notification to grant planning permission and 7 conditions were attached including the following of particular note:

2. The following requirements of the Archaeology, Conservation & Heritage Department shall be strictly adhered to:

a) The applicant in advance of works commencing on site, the applicant should submit revised drawings to the Planning Authority for their inclusion in the planning file that show the following amendments:

I. The proposed window to the Gym at the Lower Ground Floor (LGF.09) shall be removed.

II. The proposed terrace and glass balustrade at Upper Ground Floor level should be permanently omitted from the plans.

Reason: To protect the fabric, character and integrity of the protected structure.

3.1.2. The planning application was received by Dublin City Council on 14th November 2018. It was accompanied by a planning application form, public notice, planning fee etc. and a Conservation Assessment. The Conservation Assessment describes the existing building and it accompanied by a series of photographs which accompanying the detailed description of the existing house.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner's Report notes that the development is subordinate to the dwelling and the contemporary design is an appropriate design response. The use of perforated cladding obscures the proposed openings and avoids overlooking of the adjoining property. 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 7 conditions.

### 3.2.2. **Other Technical Reports**

**Conservation officer** - In her report dated 9<sup>th</sup> January 20109 the Conservation officer notes the superior quality of the design subject to omitting the window to the Gym at lower ground floor level and the glass balustrade to the front of the extension. The planning authority attached a relevant condition in response to this recommendation.

**Engineering Department – Drainage Division** - no objection subject to conditions.

### 3.3. **Third-Party Observations**

A total of four submissions were made in relation to the development. A brief summary of the issues raised in the submissions to the Planning Authority are set out below:

- The design, bulk and selected finishing material for the replacement annex, set a complete new and conflicting statement about no. 88.
- Proposed balcony at upper ground floor level would be out of character in the area and would set an unacceptable precedent and would be visually intrusive and reduce the privacy on neighbouring houses including no. 87 Kenilworth Square.
- Overlooking of no. 88A to the rear of the site.
- Scale of the development will reduce sunlight and daylight to no. 88A.
- One submission welcomes the proposal and the contemporary design approach.

## 4.0 **Planning History**

### 4.1.1. **Site**

DCC Ref. 2882/09 – Permission granted for external works to no. 87 and 88, Kenilworth Square East. Rathgar.

DCC Ref. 2545/07 – Permission refused for demolition of disused shed and the construction of a mews building at no. 88 Kenilworth Square East. Rathgar.

## 5.0 Policy and Context

### 5.1. Development Plan

5.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022.

5.1.2. 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.

5.1.3. 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.

5.1.4. Section 16.10.12: Extensions and Alterations to Dwellings

Relates to alterations and extensions to dwellings and states that development will only be granted where it will not have an adverse impact on the scale and character of the area and will not adversely affect amenities enjoyed by occupants of adjacent buildings.

5.1.5. Appendix 17 of the Plan sets out design guidance with regard to residential extensions;

17.3: Residential amenity: extensions should not unacceptably affect the amenity of the neighbouring properties,

17.4 Privacy: Extensions should not result in any significant loss of privacy to the residents of adjoining properties.

17.6 Daylight and Sunlight: care should be given to the extensions and the impact on the adjoining properties,

17.11 Roof extensions: the design of the roof shall reflect the character of the area and any dormer should be visually subordinate to the roof slop, enabling a large proportion of the original to remain visible.

5.1.6. 11.5.5.1 Protected Structures:

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

Development will conserve and enhance Protected Structures and their curtilage.

5.1.7. 11.1.5.4 Architectural Conservation Areas and Conservation Areas:

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

**5.2. Natural Heritage Designations**

None

**5.3. EIA Screening**

The proposed development is not of a class for the purpose of EIAR. The nature and scale of the development would not result in a real likelihood of significant effects on the environment. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

**6.0 The Appeal**

**6.1. Grounds of Appeal**

6.1.1. The appellants' property is located to the immediate east of the site – no. 88A Kenilwoth Square East. Concerns are expressed with the overall size and scale of the proposed extension as it will overlook No. 88 and be in infringement of privacy. Concerns are expressed in relation to the visually dominant design of the extension.

**6.2. Applicant Response**

6.2.1. In relation to the third-party appeal lodged, it is stated that the upper floors of the extension will be served by 5 no. windows which will provide light to an office and ensuite bathrooms. It is noted the two of the windows on the east facing upper ground floor elevation and north facing first floor window will be positioned within the perforated aluminium cladding. The two east facing ensuite windows will be obscured glass. The remaining east facing window will be positioned in line with no. 88A at lower ground level.

6.2.2. It is set out that the development is a replacement of an existing extension and will not impact on sunlight and daylight access to No. 88A. The design and materials compliment the architectural integrity of the period residence and the extension is subordinate to the existing dwelling.

### 6.3. **Planning Authority Response**

6.3.1. The Planning Authority did not respond to the grounds of appeal.

### 6.4. **Observations**

3 no. observations have been received.

1. Mr. John Fegan, 29 Kenilworth Square West, Rathgar. A summary of the observations raised are outlined below:
  - The proposed contemporary design provides a clear distinction between the protected structure and the new development.
  - The reestablishment of the property as a family home is welcome.
  - The third party appeal submission des not raise any new issues.
  
2. Paddy Marron of behalf of the Rathgar Resident's Association, PO Box 9574, Dublin 6. A summary of the observations raised are outlined below:
  - The design, material and colour palette are inappropriate for this 19<sup>th</sup> Century building.
  - To allow such development on this prominent corner site would be injurious to this Z2 area and would impact adversely on other adjoining protected buildings.
  
3. Mr. Phillip O'Reilly, 18 Grosvenor Place, Rathmines, Dublin 6. A summary of the observations raised are outlined below:
  - The extension is in incongruous structure and out of character in a Z2 conservation area.
  - The submission refers to an historical planning permission DDC ref. 2545/07 on the site where an extension was refused for reasons of design. The submission maintains the same reason is valid.

## 7.0 Assessment

The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of Development
- Design - Impact on Architectural Heritage and on the Character of the Conversation Area
- Residential Amenity
- Appropriate Assessment

### 7.1. Principle of Development

- 7.1.1. The site is zoned 'Z2' under the Dublin City Development Plan, 2011-2017. The stated objective for 'Z2' zoned land is "to protect and/or improve the amenities of residential conservation areas". The principle of residential development is generally acceptable on 'Z2' zoned land, subject to safeguards.

### 7.2. Design - Impact on Architectural Heritage and on the Character of the Conversation Area

- 7.2.1. No. 88 Kenilworth Square East is a protected structure. The third-party appellant and two of the observers are critical of the architectural expression and materials proposed and assert that the structure is out of character in this locale. I note the innovative contemporary character of the design and as regards the façade treatment the use of the traditional red brick at lower levels is reflective of traditional side extensions in the area and serves to ground the proposed extension, by contrast the contemporary perforated aluminium cladding at the upper levels is light and reflective and contrasts effectively with the red brick and rendered finishes elsewhere in the area. The design is of an appropriate scale and bulk and subordinate to the main dwelling and the stepped reduction in floor plan over the three floors significantly reduces the scale of the development. The contemporary design approach sets a clear distinction between the old and the new and bookends the terrace. I consider this approach acceptable and in line with Section 11.1.5.1 of the Dublin City Development Plan (2016-2022).



- 7.2.2. The Conservation Assessment submitted by the first party sets out that it is proposed to carry out alterations and additions to the house to provide for the requirements of modern living and to reverse alterations carried out in the mid-twentieth century when a separate flat was created at lower ground level. I note the Conservation officer has not raise any concerns regarding the internal works and noted the architectural quality of the proposed extension design. The Conservation officer did raise some concerns regarding external interventions and a condition was attached by the planning authority requiring the window serving the gym at lower ground floor level be removed and the omission of the terrace and glass balustrade at upper ground floor level. These interventions were considered an inappropriate level of intervention and not justified in a conservation context. I agree and consider a condition relating to same be re-imposed in this instance.
- 7.2.3. I am satisfied that the development is reflective of good contemporary architecture and provides a high-quality design approach. I consider in relation to the visual impact and impact on architectural heritage that the proposal is of a high standard and is innovative and contemporary yet acknowledging of its context. I am satisfied that the design, form, scale, height, proportions, siting and materials of the proposed extension relate to and complement the special character of the protected structure whilst maintaining the traditional proportionate relationship in scale between the main dwelling and the extension.

### 7.3. **Residential Amenity**

- 7.3.1. The third-party appellant has raised the issue of residential amenity including impacts on daylight and sunlight/overshadowing and loss of privacy.
- 7.3.2. In relation to loss of daylight and sunlight/overshadowing, the appellants have raised specific concerns in relation to the impacts on the dining room rooflights. The BRE Guidelines (Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice, 2011) note that bathrooms and circulation areas need not be analysed when considering impacts of development on adjoining buildings, and consideration of impacts is limited to rooms where daylight is required, including living rooms, kitchens and bedrooms. I note no. 88A is a single storey dwelling some 5.3m from the rear wall of the proposed extension and the windows in question are roof lights and therefore sunlight/daylight will not be impacted on as the light is direct form

above. In terms of overlooking the use of perforated cladding obscures the proposed openings at each level and windows behind the cladding facing east in the direction of no.88A are obscure windows to avoid overlooking. When taken together with the proposed height of the extension and the distance from the rooflights, I am satisfied that there is no overlooking of no. 88A as a result of the proposed extension.

7.3.3. Overall, I do not consider the proposal results in any injurious impact on residential amenity and would not have an adverse impact on property values.

#### 7.4. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development, extensions to an existing property, 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**

I recommend that planning permission be **GRANTED** for the proposed development having regard to the reasons and considerations and subject to conditions as set out below.

#### 9.0 **Reasons and Considerations**

Having regard to the design, appearance of the proposed extensions, and the pattern of development in the vicinity, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual amenities of the area or residential amenities of property in the vicinity, would not have an adverse impact property values, and would not adversely impact on the character of the Residential Conservation Area. The proposed development, therefore, would 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 in accordance with the agreed particulars.

**Reason:** In the interest of clarity

2. The development shall be revised as follows:
  - a) The proposed window to the Gym at the Lower Ground Floor shall be removed.
  - b) The proposed terrace and glass balustrade at Upper Ground Floor level should be permanently omitted.

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 visual and residential amenity

3. Any works to the protected structure 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.

4. 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

5. Site development and building works shall be carried out only between the hours of 0800 to 1800 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

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Irené McCormack  
Planning Inspector

17<sup>th</sup> May 2019