



An  
Bord  
Pleanála

## Inspector's Report ABP 308121-20.

<b>Development</b>	Demolition of rear garage building and construction of a mews dwelling.
<b>Location</b>	Rear of No 35 Mountpleasant Square, Mountpleasant Avenue Upper, Ranelagh, Dublin 6. (Protected Structure.)
<b>Planning Authority</b>	Dublin City Council
<b>P. A. Reg. Ref.</b>	2919/20
<b>Applicant</b>	Zara Kenny.
<b>Type of Application</b>	Permission.
<b>Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party X Refusal
<b>Appellant</b>	Zara Kenny.
<b>Date of Site Inspection</b>	19th October, 2020
<b>Inspector</b>	Jane Dennehy

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
2.5. Planning Authority Reports.....	4
2.6. Third Party Observations .....	5
3.0 Planning History.....	5
4.0 Policy Context.....	6
4.1. Development Plan.....	6
5.0 The Appeal .....	8
5.1. Grounds of Appeal .....	8
5.3. Planning Authority Response .....	10
6.0 Assessment.....	10
7.0 Recommendation.....	13
8.0 Reasons and Considerations.....	13
9.0 Conditions.....	14

## 1.0 Site Location and Description

- 1.1. The site has a stated area of 103 square metres and is formed from subdivision of plot of No 35 Mountpleasant Square which is a nineteenth century, three bay, two storey over basement townhouse with a two-storey return. It is enclosed by boundary walling adjacent to south side by a lane with a splayed corner at Mountpleasant Avenue Upper to the west and it extends along the property boundary on Mountpleasant Avenue. This wall is circa two metres in height has and there are metal gates along the lane frontage and a pedestrian gate in the Mountpleasant Avenue frontage. On the inner side of the rear boundary there are outbuildings and overgrown shrubs and vegetation.

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for demolition of the shed on the site and for construction of a single storey mews dwelling. The stated floor area of the building to be demolished is 32 square metres and that of the proposed dwelling is eighty square metres. The stated plot ratio is 1.0:1.28 and the stated site coverage is 78%. A total of twenty square metres in private open space provision is included.
- 2.2. The application includes a report on architectural and historical significance of the existing building and photomontages.

## 3.0 Planning Authority Decision

### 3.1.1. Decision

By order dated, 10<sup>th</sup> August, 2020 the planning authority decided to refuse permission based on the reason reproduced in full below:

*“The proposed development is located in an area which is zoned Residential Neighbourhood (Conservation Areas- Z2) with a corresponding land-use zoning objective “to protect and/or improve the amenities of residential conservation areas”. The proposal for a single storey mews house in the rear garden of a protected structure, by virtue of its proximity to the existing house represents overdevelopment of the site, would result in significant*

*encroachment into the curtilage of a protected structure and would consequently result in a minimal garden setting and an unacceptable impact on the setting and character of the protected structure and the adjoining protected structures. The proposed development would undermine Policy CHC2 (to protect the special interest of the protected structures) and CHC4 (to protect the special interest and character of Dublin's conservation areas). The proposed development would therefore be contrary to the policies and objectives of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area."*

### 3.2. Planning Authority Reports

- 3.2.1. The report of the planning officer indicates concerns as to the plot size, lack of private open space proximity to and size of the existing dwelling and it is concluded that the proposal constitutes overdevelopment with negative impact on the existing building, a protected structure.
- 3.2.2. The report of the Transportation Planning Division notes the reason attached to the decision to refuse permission under P. A. Reg. Ref. 4730/18 relating to traffic hazard. (Full details are in section Planning history below.). However, no objection to the proposal is indicated, reference being made to the proposed access from a section of Mountpleasant square with no existing access, that the dwelling is not necessarily a mews dwelling and to the laneway and proposed entrance widths. It is also indicated that there is no objection to the absence of proposals for on-site carparking, subject to cycle parking provision being made, parking given the location close to transport options.
- 3.2.3. The report of the **Drainage Division** indicates no objection subject to conditions.
- 3.2.4. There is no **Conservation officer** report on file but reports from the conservation officer are available on prior application under P. A. Reg. Ref. 4730/18 details of which are in section Planning history below.).

### 3.3. Third Party Observations

No submissions were lodged with the planning authority

### 4.0 Planning History

**P. A. Ref. Ref. 3030/19:** Permission was granted for a single storey above ground rear extension of 31m<sup>2</sup> to basement and ground floor incorporated into the main house living accommodation with internal alterations to allow connectivity with proposed new extension with reduction of floor level in basement to provide adequate head height for habitable rooms which may require some underpinning of walls with demolition of a non-original single storey W.C. rear extension with demolition of original single-storey return along southern boundary (10.5m<sup>2</sup> in total) with reinstatement of boundary wall along laneway on southern boundary with alterations to existing rear boundary wall with associated site works.

**P. A. Reg. Ref. 4730/18:** Permission was refused for a two bedroom with study, two storey mews of 116m<sup>2</sup> with demolition of rear existing garage building (32m<sup>2</sup>) and alterations to existing rear boundary wall with new vehicular access with associated site works, bin stores, bicycle parking and landscaping.

Reason No 1 is reproduced in full below,

*"The proposed development represents over development within the curtilage of this Protected Structure. As the proposal does not relate sensitively to the architectural detail and character of this significant Georgian residence, it would seriously injure its architectural character, which is an integral part of a wider historic design and historic terrace. By way of its height, bulk, materiality, design and architectural expression, this proposal would seriously injure the historic setting, curtilage and special architectural character of the Protected Structure and would create an undesirable precedent. The proposal would therefore contravene Section 11.1.5.1 CHC2 (a), (b), (c) of the Dublin City Council Development Plan 2016-2022.*

According to Reason No 2, the proposed development would generate traffic hazard contrary to policy in section 16.10.18 of the CDP for parking due to the constrained vehicular access arrangements proposed.

**P. A. Reg. Ref. 4731 /18:** Permission was refused for a two storey over ground extension of 47m<sup>2</sup> to basement, ground and first floors incorporated into the main house living accommodation with internal alterations to allow connectivity with proposed new extension with reduction of floor level in basement to provide adequate head height for habitable rooms which may require some underpinning of walls with demolition of a non-original single storey W.C. rear extension with demolition of original single-storey return along southern boundary (10.5m<sup>2</sup> in total) with reinstatement of boundary wall along laneway on southern boundary with alterations to existing rear boundary wall with associated site works, bin stores, bicycle parking and landscaping.

According to the Reason,

*“The proposed extension by virtue of its scale and design would have a significant negative impact on the architectural character of the Protected Structure and on the legibility of the original floor plan and building form. The impact on the rear detracts significantly from the protected structure, both in terms of its architectural and historical character and that of the wider terrace. The scale and size of this two-storey over basement extension, which would seriously injure the architectural character of the Protected Structure and of adjacent Protected Structures would set an undesirable precedent along the street. The proposal would therefore contravene Section 11.1.5.1 CHC2 (a), (b), (c) of the Dublin City Council Development Plan 2016-2022.”*

## 5.0 Policy Context

### 5.1. Development Plan

The operative development plan is the Dublin City Development Plan 2016-2022 according to which site is within an area subject to the zoning objective Z2: “To protect and/or improve the amenities of residential. Conservation areas.”

Indicative site coverage is 45% .

No 35 Mountpleasant Square and the adjoining properties in the terrace and around Mountpleasant Square are included on the record of protected structures.

Policy Objective CHC2 is reproduced below:

*“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.*
- b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances*
- c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials.*
- d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure.*
- e) Protect architectural items of interest from damage or theft while buildings are empty.*
- f) Have regard to ecological considerations for example, protection of species such as bats.*

*Changes of use of protected structures, which will have no detrimental impact on the special interest and are compatible with their future long-term conservation, will be promoted.”*

Guidance and standards on works and additions, internally and externally, to protected structures are set out in section 11.1.5.3 which provides for minimal intervention to and maximisation of retention historic fabric and original planform, protection of proportions within buildings and relative to adjoining buildings.

Policy CHC4 provides for the protection of the special interest and character of Dublin's Conservation Areas. The policies and objectives are elaborated on in detail in section 11.1.5.4. However, it is of note that the site location is within an area

subject to the 'Z2' zoning objective which provides for residential conservation areas as distinct from statutory architectural conservation areas or areas designated as 'conservation areas' in the CDP.

Policies objective and standards for mews lane developments are within Section 16.10.16. Of note in particular is the subsection (f) in which the amalgamation or subdivision of plots is generally not encouraged; (g) provision for parking to be off street garages forecourts or courtyards; (j) private open space at 10 square metres per bed space, to be located at the rear of the houses, landscaped with a depth across the width of the site of 7.5 metres, unless it is demonstrably impractical and unobstructed by parking and (l) separation distance between opposite windows of twenty two metres minimum unless where there are site constraints and high quality design ensuring privacy standards are achieved can be provided.

Objective QH 8 provides for higher density development which respects the character of surrounding development on vacant or under-utilised sites.

Development Management Standards for residential development are set out Chapter 16 with guidance and standards for residential quality in section 16.10.2 and guidance and criteria for infill developments in sections 16.10.8 and 16.10.10.

The location is within 'Area 2' for parking standards as set out section 16.1 with a maximum requirement of one space per dwelling.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

An appeal was received from O'Connor Whelan on behalf of the applicant on 7<sup>th</sup> September, 2020. Attached is a copy of a shadow study and photographs are included in the submission. According to the appeal:

6.1.1. The proposed development accords with the zoning objective, Policies CHC2 and CHC4 of the CDP.

- The CDP requires sensitive development in Z2 zoned areas. The proposal is backland and does not detract from the architectural character of Mountpleasant Square or surrounding amenities.



- With regard to policy CHC 2, items (a) (b), (c), (e) and (f) are irrelevant. There is no impact on curtilage as provided for under (d). The existing building is clearly the main house and faces Mountpleasant Square in a coherent terrace whereas the rear is secondary. Various existing buildings at the rear have no impact on the main buildings in the terrace.
- The total area of the dwelling is fifty-six square metres, the net area for the building is sixteen square metres, an area of thirty-six metres for the sheds being proposed for removal
- With regard to policy CHC 4 there is no conflict with the requirements as the proposed development is in the rear garden with no impact on setting or curtilage whereas the focus of the conservation area is Mountpleasant Square.

6.1.2. There is no adverse impact on the character and setting of the existing building. (a protected structure.) The description in the RPS is “house” as opposed to the surrounding site. The proposed development will not be visible from Mountpleasant Square and has no visual impact on the existing house.

- There are no heritage reports from the conservation officer or others on file whereas an extensive assessment by David Slattery Architects was provided with the application. In it is stated that the rear garden is dilapidated and overgrown and along with the lane it detracts from the protected structure and streetscape whereas the proposed works to the boundary wall which will save it is an enhancement.

6.1.3. The proposal is not overdevelopment.

- Site coverage is a crude measure for overdevelopment the standards in the CDP are indicative only and a super replacement building is proposed.
- The existing buildings already exceed the indicative site coverage. The proposal complies with the caveats being within walking distance of transport facilities and Ranelagh and Rathmines.
- the rear of No 35 is not attractive in the streetscape of Mountpleasant Avenue. The proposal recognises the building line of mews at No 32 and 33 and 35A Mountpleasant Square.

- The submitted shadow study demonstrates that significant overshadowing of neighbouring properties will not occur.

6.1.4. The proposed single storey rear garden development, not much higher than the 3eboundary wall is, an appropriate backland development in an area suitable for increased density will have no impact on amenities of adjoining properties.  
(protected structures.)

## 6.2. **Planning Authority Response**

There is no submission from the planning authority on file.

## 7.0 **Assessment**

7.1. The issues central to the determination of a decision having regard to the appeal and considered below are:

Architectural Heritage Protection.

Overdevelopment and impact on residential amenities

Traffic and parking.

Environmental Impact Assessment Screening

Appropriate Assessment Screening.

## 7.2. **Architectural Heritage Protection.**

7.2.1. It is agreed that the presentation of the existing house and adjoining houses in the terrace towards Mountpleasant Square all of which are protected structures is relatively unaltered by the proposed development. However, it is not agreed that curtilage is not at issue in that statutory protection extends over the entire curtilage with a presumption of statutory protection throughout unless specifically excluded in the description on the record of protected structures. In this instance, the claim that because the description is, "house" the remainder of the historic curtilage can be disregarded is rejected.

7.2.2. There is a presumption that proposed development which involves subdivision of the historic plot including possible features and fixtures are subject to statutory protection unless it can be established that any such elements have no special

interest with regard to the fabric, context and setting of protected structures. As such a satisfactory assessment and case from a conservation and planning perspective is essential to assessment of the proposal.

- 7.2.3. While as stated in the appeal, there are no reports and recommendations available on file from relevant prescribed bodies and the conservation officer, the conservation officer's report on the prior proposal under P. A. Reg. Ref. 4730/18 in which a refusal of permission was recommended has been reviewed. (The reason for refusal is provided in full under section 5 planning history above.) This prior proposal provided for a similar subdivision of the historic plot for the original dwelling but a dwelling in a different form and height with, on-site parking, and a small patio area.
- 7.2.4. The conservation officer drew attention om the report of the prior proposal to policy 16.2.2.2. of the CDP regarding respect for and enhancement of and a positive response to context in width plot widths and no objection is raised in principle to subdivision of the historic plot. In principle, subdivision of the historic plot of the existing dwelling is acceptable, especially having regard to the location close to the centre of the city and to services and facilities, but subject to a high-quality sensitive development overcoming concerns about the prior proposal being proposed.
- 7.2.5. It is agreed with the applicant's agent that the presentation to Mountpleasant Square itself would remain unaltered, but sensitivity in design and form is essential with regard to the views along the laneway from Mountpleasant Square. Furthermore, there is no objection to the proposed removal of the existing structures within the site curtilage to facilitate the development in that they have no special interest or merit in the context of the protected structure. There is no objection to the proposals for the boundary walling included in the proposal. It is considered that the proposed dwelling would be acceptable in the streetscape context along Mountpleasant Avenue in both directions, from Richmond Place and in views towards the southern boundary along the lane on approach from Mountpleasant Square. The proposed low profile, small single storey dwelling, set behind the boundaries, subject to appropriate selection of materials and finishes and design features would be acceptable and compatible with the existing and surrounding structures and architectural character of the area in these views towards the site.

### **7.3. Overdevelopment and impact on residential amenities**

- 7.3.1. The site coverage at circa eighty percent is well in excess of the indicative 45% for 'Z2' zoned lands of 45% as provided for in the CDP. However, it is agreed that flexibility can be considered, subject to satisfactory qualitative standards being achieved both for the proposed development and with regard to impact on surrounding development, having regard to the criteria such as inner-city location close transport to services and facilities.
- 7.3.2. The footprint for the proposed low profile single storey one bedroom dwelling (which has a stated floor area of fifty-six square metres) on the site, relative to the site area is considerable and as a result of which private open space in the form of a narrow (2.6 metre wide) strip to the east side of the dwelling is of limited attainable amenity potential and poor sunlight and daylight access. Encroachment into this space for refuse storage and cycle parking may also be required. By virtue of being enclosed by the screen wall along the subdivision of the site providing for privacy for the existing and proposed dwellings the private open space may have a corridor of tunnel effect and a creativity in landscaping would be required to ameliorate this. The proposed small one-bedroom dwelling with a high standard in internal layout in which the living space benefits from supplementary natural lighting through rooflights which is essential to it.
- 7.3.3. The site coverage and private open space configuration for the dwelling limits the amenity potential for the future occupants, but the single storey, low profile design and form does not give rise to significant concern as to adverse impact on amenities of the original, existing dwelling and adjoining properties in the terrace attributable to separation distances, overlooking, overshadowing or remaining external private amenity space around the original house.

### **7.4. Traffic and parking.**

- 7.4.1. The acceptability of the proposal, which does not include on-site parking provision to the Transportation Planning Division as indicated in its report is noted.

### **7.5. Environmental Impact Assessment Screening.**

- 7.5.1. Having regard to the minor nature and scale of the development proposed and its inner urban location in an area removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for

environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

#### **7.6. Appropriate Assessment.**

- 7.6.1. Having regard to the, the location of the site which is on serviced land in an inner urban area and, to the nature and scale of the proposed development, no appropriate assessment issues arise, the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **8.0 Recommendation**

- 8.1. It is concluded that the proposed development is generally satisfactory with regard to architectural heritage protection considerations, visual amenities, and residential amenities of adjoining properties. and as such the issues of concern in relation to the prior proposal under P. A. Reg. Ref. 4730/18 are considered to be satisfactorily addressed. However, the current proposal does give rise to some concern as to attainable residential amenity potential for the future occupants by reason of sense of enclosure and the configuration for private open space. Nevertheless, given the serviced, inner suburban location and the satisfactory design and form for the restricted site, it recommended that the planning authority decision to refuse permission be upheld, based on the reasons and considerations set out below.

### **9.0 Reasons and Considerations**

- 9.1.1. Having regard to the Dublin City Development Plan, 2016-2022 according to which the existing structure is included on the record of protected structures and the location within an area subject to the zoning objective Z2: *“To protect and/or improve the amenities of residential conservation areas”*, and to the architectural character and established pattern of development in the area and, the site configuration and proposed design and form, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure or adversely affect the integrity of the historic architectural character and setting of the protected structures the visual amenities and established pattern and character of development in the area, or, the residential amenities of adjoining properties and

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. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

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

3. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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.

4. Details of the proposed arrangements for hard and soft landscaping and boundary treatment, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works. Any plants which die, are removed or become seriously

damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenities.

5. Full details of the proposed arrangements for cycle and refuse storage shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of public safety and visual and residential amenity.

6. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk including in the basement area, shall comply with the requirements of the planning authority for such works and services.

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

7. The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

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

8. 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.

**Jane Dennehy,**  
Senior Planning Inspector  
30<sup>th</sup> December, 2020.