



An
Bord
Pleanála

Inspector's Report

ABP-314047-22

Development	Construction of extension, alterations, and all associated site works.
Location	No. 8, Grosvenor Place, Rathmines, Dublin 6, D06 A3H3.
Planning Authority	Dublin City Council South.
Planning Authority Reg. Ref.	WEB1354/22.
Applicant(s)	Jack & Orla Kennedy.
Type of Application	Planning Permission.
Planning Authority Decision	Grant.
Type of Appeal	First Party - Vs - Condition No. 2(a) & (b).
Appellant(s)	Jack & Orla Kennedy.
Observer(s)	Philip O'Reilly.
Date of Site Inspection	4 th day of November, 2022.
Inspector	Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. No. 8 Grosvenor Place, has a stated site area of 265m², and this rectangular shaped site is situated in a group of 2-storey period redbrick terraces on the western side of Grosvenor Place, with the appeal site situated c20m to the north of Grosvenor Place's junction with Kenilworth Road and c75m to the south of its junction with Effra Road, in the Dublin city suburb of Rathmines, just over 3km to the south of the city centre as the bird would fly.
- 1.2. No. 8 and the terrace group it forms part of forms part of a larger residential conservation area. It is setback from the public domain of Grosvenor Place by a small front garden area that is enclosed by decorative cast iron railings on cut stone granite plinths and matching pedestrian gate. With a period paved pedestrian path providing connection from the front door to the public domain.
- 1.3. Running alongside the roadside edge of Grosvenor Place there is permit on-street car parking for residents as well as pay and display parking.
- 1.4. To the rear there is a new extension in the process of being constructed and a single storey outbuilding located to the rear with separate vehicle and pedestrian access onto a rear service lane. This is building and the rear side boundary walls are in a poor state of repair. In addition, to the rear construction works there are substantive internal and external refurbishment of the original structure.
- 1.5. The surrounding area has a mature residential character and there are examples of varying in architectural design additions present to the rear of the terrace group No. 8 forms part of. Despite these additions and changes the principal elevation of this terrace group and their semi-public private domain as appreciated from the public domain of Grosvenor Place is largely intact.

2.0 Proposed Development

- 2.1. Planning permission is sought for alterations and additions to the existing two storey terraced house consisting of: (1) new first floor extension to the rear, & (2) all associated site works.
- 2.2. According to the planning application form the existing floor area of No. 8 is given as 167m², the proposed floor area of new buildings is given as 18m², the total floor area

of new and retained is given as 185m²; the total area of buildings is to be demolished is given as zero and the total area of non-residential is given as 37m². In addition, it sets out a plot ratio of 0.84, site coverage of 54% and that there are existing connections to public water as well as waste water supply.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 13th day of June, 2022, the Planning Authority issued a notification to **grant** permission subject to 7 no. mainly standard conditions. Of particular relevance to the subject matter of this appeal is the requirements of Condition No. 2 which reads:

“The development shall incorporate the following amendments: a) The first-floor rear extension shall have a maximum external depth of 3.5 metres. b) The south facing first floor windows of the first-floor rear extension shall be omitted in entirety.

Reason: In the interests of visual and residential amenity.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officers report is the basis of the Planning Authority’s decision. It includes but is not limited to an overview of relevant planning provisions, it indicates that there is no planning history pertaining to the site through to it summarises the two Third Party appeals and interdepartmental reports received. It raises concerns that the first-floor level extension has the potential to give rise to adverse residential amenity impacts and therefore recommends revisions to address this concern. It considers that this concern can be dealt with by way condition, and it is concluded that the proposed development is otherwise acceptable subject to recommended safeguards.

3.2.2. Other Technical Reports

Engineering: No objection, subject to safeguards.

3.3. Prescribed Bodies

3.3.1. None received.

3.4. Third Party Observations

3.4.1. Two No. Third Party Observations were received. These are attached to file, and I have read their content. I consider that the substantive concerns raised therein correlate with those raised by the Observer but also relate to concerns arising from the proposed rear extension on the established residential amenities of No. 10 Grosvenor Place, which adjoins the subject site. Particular concerns are raised that their residential amenities would be diminished by overshadowing, overlooking and visual overbearance.

4.0 Planning History

4.1. Site and Setting

4.1.1. No recent and/or relevant planning history pertaining to the site or its setting.

5.0 Policy Context

5.1. Development Plan

5.1.1. Dublin City Development Plan, 2022-2028, is applicable, under which the site is zoned 'Z2' (Note: Residential Neighbourhoods (Conservation Areas)) which has a stated objective "*to protect and/or improve the amenities of residential conservation areas*".

5.1.2. Section 14.7.2 of the Development Plan in relation to conservation areas states that: "*residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale. A Zone Z2 area may also be open space located within or surrounded by an Architectural Conservation Area and/or a group of protected structures. The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to protect them from unsuitable new*

developments or works that would have a negative impact on the amenity or architectural quality of the area”.

- 5.1.3. Chapters 11 of the Development Plan deals with Built Heritage and Archaeology.
- 5.1.4. Chapter 15 of the Development Plan sets out the Development Standards as well as detail the policies and objectives for residential conservation areas and standards, respectively.
- 5.1.5. Appendix 18 Section 1.2 of the Development Plan in relation to extensions to the rear states that: *“the following factors will be considered:*
- *Overshadowing, overbearing, and overlooking - along with proximity, height, and length along mutual boundaries.*
 - *Remaining rear private open space, its orientation and usability.*
 - *Degree of set-back from mutual side boundaries.*
 - *External finishes and design, which shall generally be in harmony with existing.”*

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site, it does not adjoin such a site nor is it within the zone of influence of such sites. The nearest Natura 2000 sites are located c4.4km to the east. These are South Dublin Bay SAC (Site Code: 000210) and South Dublin Bay & River Tolka SPA (Site Code: 004024).

5.3. EIA Screening

- 5.3.1. The proposed development is not of a nature or scale which would fall within the fifth schedule of the Planning and Development Regulations, 2001, (as amended), such as would necessitate the carrying out of an EIAR.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal can be summarised as follows:
- This appeal relates to Condition No. 2(a) and (b) only.

- Permission was sought first for a first-floor rear extension of 5.5m and was granted permission with a maximum external depth of 3.5m.
- This reduction in depth is not fair or reasonable.
- The proposed extension has been designed to cause least impact possible on adjoining neighbours and seeks to integrate seamlessly with the existing house. It will be constructed with a flat roof over and be subordinate to the main house in terms of scale.
- The main purpose of the extension is to allow for a larger bathroom for this four-bedroom house.
- When the house was constructed, it did not include an internal bathroom and the current family bathroom is 2m².
- The proposed extension will also allow for additional storage that is also lacking throughout the house.
- The proposed extension is stepped back from the neighbour's property and would have minimal impact on light.
- A traditional lime mortar will be used as an external finish which would be in keeping with the more traditional finish of this type of house.
- We are looking to create a long-term family home that will adequately meet our needs as a growing family.
- The Board is sought to omit the subject condition.

6.2. Planning Authority Response

6.2.1. None received.

6.3. Observations

6.3.1. The observer's submission can be summarised as follows:

- Concerns are raised in relation to the construction of large extensions on existing substantial dwellings onto Edwardian houses on Highfield Road and the more modest houses on Grosvenor Place.

- This dwelling is largely intact and on its original footprint.
- The need for an extension on any floor would be reduced by imaginative use of existing historic structures.
- This proposal results in the loss of historical layout of the house.
- With little imagination the design could have used the original building envelope and with a small extension instead. This would have minimised overshadowing on No. 10.
- There is no precedent for such an extension on these houses on Grosvenor Place.
- The extension to No. 12 was constructed 100 years ago and it is not of a size that would overshadow neighbouring properties.
- If global warming, climate change and sustainability are to be given credence then proposals like this would not be permitted.
- Permission was given for something that was not applied for. How legal and valid is this.
- The Board is also sought to review sub condition (b). The subject windows to which this sub condition relates to would be completely obscured for the privacy of the neighbours and their main bedroom. The purpose of these windows is for light and symmetry of design.

7.0 Assessment

- 7.1. This is a First Party appeal against Condition No. 2(a) and (b) as attached to the Planning Authority's Notification of the Decision to Grant Planning Permission. As set out under 3.1.1 of this report above the Planning Authority by way of Condition No. 2 and its two sub conditions that the proposed development is amended to incorporate firstly a reduction in the depth of the first-floor rear extension to a maximum external depth of 3.5 metres (Note: Condition No. 2(a)) and seeks that the south facing first floor windows of the first floor rear extension are be omitted in their entirety (Note: Condition No. 2(b)). The given reason for Condition No. 2's amendments to the proposed development is given as in the interests of visual and residential amenity.

- 7.2. The appellant in their submission to the Board consider that the reduction in depth to a maximum of 3.5m is unreasonable and would not give rise to any significant improvements to the level of overshadowing arising from the first-floor extension. They contend that the depth of 5.66m as proposed provides a family sized bathroom as well as much needed storage whilst maintaining four bedrooms for their growing family.
- 7.3. In relation to omission of the first floor south facing windows they argue that these would be fitted with obscure glazing and would provide daylight to the first-floor level extension in a manner that would not give rise to any undue overlooking.
- 7.4. They also contend that these windows add to the symmetry of the first-floor levels overall design. They therefore seek that the Board omit the requirement of sub-condition (a) and (b).
- 7.5. Following my inspection of the site, examination of the planning file and grounds of appeal, together with having regard to all relevant planning policy provisions, including having regard to the matters raised by the observer in their submission to the Board, I consider it appropriate that the Board should confine its determination of this appeal case to Condition No. 2(a) and (b) only.
- 7.6. The assessment of these two conditions in my view overlaps with the built heritage, visual and residential amenity concerns raised by them alongside overlaps with the concerns raised by the appellants who seek Condition 2 (a) and (b) omission from the Planning Authority's notification to grant permission on the basis that these amendments are not justified or warranted under the visual and residential amenity interest reasons given.
- 7.7. Accordingly, I am satisfied that the determination by the Board of this application as if it had been made to it in the first instance would not be warranted, and that the Board should determine the matters raised in the appeal only in accordance with Section 139 of the Planning and Development Act 2000, as amended.
- 7.8. There is no planning history for No. 8 Grosvenor Place, but inspection of the site shows that whilst the front façade and the semi-private front garden area that addresses the western side of Grosvenor Place it has survived to up to recently largely intact. In addition, to the rear this property it has been subject to modest additions including the construction of a single storey extension and a garage type structure addressing the

Kenilworth Lane South to the rear. At the time of inspection, the subject property, which is a red brick period 2-storey residential terrace building was undergoing significant alterations and addition works.

- 7.9. The subject property forms part of what was once a highly coherent in architectural design and layout group of twelve residential dwellings that extended along the western side of Grosvenor Place to the south of Effra Road and to the north of Kenilworth Road. Most of these dwellings benefitted from access to a service lane known as Kenilworth Lane South.
- 7.10. These dwellings as appreciated from the public domain of Grosvenor Place have survived largely intact and as a group they positively contribute to the character and integrity of their period in the design and laid out streetscape scene that also contains other similar in architectural design residential built forms.
- 7.11. Their designation as part of a residential conservation area in terms of their 'Z2' land use zoning is reflective of their positive contribution to the quality, intrinsic character, and uniqueness of these attractive period residential streetscape scenes. The land use zoning for 'Z2' land encourages residential as the principal land use and the Development Plan.
- 7.12. By way of the subject planning application the First Party sought permission for alterations and additions to the existing two storey terraced house consisting of a new first floor extension to the rear together with all associated site works.
- 7.13. The Development Plan seeks to ensure that that alterations and extensions will be sensitively designed and detailed to respect the character of the existing building, its context and the amenity of adjoining occupiers.
- 7.14. It sets out a number of criteria for this type of development under Volume 2 Appendix 18 which I consider that the proposed development in terms of its design and layout is largely consistent with. For example:
- 1) The proposed design does not interrupt the existing uniformity of the terrace group it forms part of as appreciated from the public domain of Grosvenor Place.
 - 2) Despite the indicative site coverage exceeding the 45% to 50% for Conservation Areas land by 4%, Table 2 Volume 2 of the Development Plan also sets out an indicative site coverage of between 45% to 60% for residential areas.

3) This proposal relates to an extension to the rear of this period terrace group, a terrace group that does not survive as intact as the principal elevation. The rear of this period terrace group addresses a service lane and contains an *ad hoc* variety of later additions mainly in the form of single storey extensions, garage/outbuildings to the rear through to amendments to the period glazing and provision of solar panels. Whilst there is no recent precedent for a first-floor level addition to the rear of this period terrace group there is a historic first floor level rear return present on a neighbouring property to the north, i.e., No. 12. There are limited views of the rear of the property from the public domain of Grosvenor Place and Kenilworth Road. In terms of contribution to the residential conservation area I consider that No. 8 and the terrace group it forms part of contribution arises from its highly attractive, visually coherent, highly intact principal façade as well as enclosed semi-private public domain and not from their rear elevation. Not result in the loss of, obscure, or otherwise detract from, architectural features which contribute to the quality of the existing building.

4) In terms of extension, it is confined to the rear of No. 8 and the period terrace group it forms part of.

7.15. Despite these positives I raise concern that the criteria also include that extensions should be subordinate in their design to the built form to the host dwelling on the basis that the first-floor level rear extension does not sit below the eaves of the original rear elevation, the gable shaped roof structure, the massing, the height, and overall depth.

7.16. In this regard I consider that the overall built form, height, and mass of the first-floor level extension to the rear of the subject property's potential for overshadowing the adjoining property to the north. With this having the potential to give rise to serious residential amenity impact on No. 10 by way of its maximum ridge height of 7.9m; its eaves height of over 6m; its 5.660m depth; its 2.14m proximity to the shared boundary with this property, alongside the orientation of the site which has a tilted north south orientation. Altogether these factors make the adjoining property to the north, i.e., No. 10, sensitive to change by way of the first-floor level extension giving rise to significant additional overshadowing over the existing context.

7.17. I am cognisant that this concern was raised by the adjoining property owner in their submission to the Planning Authority which includes a shadow analysis (Note: No. 10)

and the residential amenity impacts of the proposed development on adjoining properties is raised as a concern by the observer to this appeal.

- 7.18. It would appear that the Planning Authority's Planning Officer's report considered that the potential for undue residential amenity to occur from the proposed first floor extension. They therefore required amendments to the design to achieve a reasonable balance between the protection of existing residential amenities whilst allowing improvements including the expansion of habitable floor area for No. 8 in a manner that was consistent with the 'Z2' land use zoning objective applicable to the site and its setting. Condition No. 2 (a) and (b) in my view directly arose from the Planning Officer's seeking to balance the residential and visual amenity concerns arising in what is sensitive to change context.
- 7.19. Of concern, the documentation submitted by the appellant does not support their contention that the proposed first floor level extension would not give rise to any undue overshadowing on any adjoining property or that there is minimal difference in overshadowing arising from the reduced depth required under Condition No. 2 (a).
- 7.20. Further, whilst the need to update this residential property to meet modern standards including the provision of a family bathroom and additional storage. I note that what is described as a family bathroom and storage area is provided within a large master bedroom and dressing area. I also observed that to the rear of the site there is a substantial in size building described as a garage but needing some refurbishment that has capacity to meet significant additional storage needs for a dwelling house of this size.
- 7.21. I share the view of the Planning Authority that the 5.66m depth of the rear extension when taken together with the extensions 4.37m width and its gable shaped roof structure over with a maximum ridge height of 7.9m and an eaves height of over 6m is excessive in its context. It would be visually overbearing and would give rise to significant additional diminishment of established residential amenities of the period residential terrace dwelling adjoining it by way of overshadowing and visual overbearance.
- 7.22. Moreover, it would be visually overbearing when viewed as part of the rear of the terrace group it forms part of when viewed from the public domain of Kenilworth Lane South and from Kenilworth Road, with the latter due to the visibility of the rear of this

terrace group from the public domain of Kenilworth Road which is also a residential conservation area. where such an extension would in my view give rise to serious injury of the adjoining property to the residential amenity of the property to the north by way of overshadowing.

- 7.23. In relation to the side windows on the first-floor level extension which Condition No. 2(b) relates. I note that the applicant proposes to fit these permanently with obscure glazing these would add to the visual overbearance of this extension and contribute to the adjoining properties perception of being overlooked. The provision of side windows for rear extensions at first floor level is at odds with the wider pattern of development within the context of this residential conservation area where first floor level extensions have been permitted.
- 7.23.1. In conclusion, based on the above considerations I consider that Condition No.2 (a) be amended in the interests of further protection and safeguarding of the residential amenities of the adjoining property No. 10 Grosvenor Place which should include a flat roof design over sitting below the eaves level alongside the reduction in depth to 3.5m.
- 7.23.2. I also consider that Condition No. 2(b) should be amended as it would appear that in error reference is made to the south facing first floor windows of the first-floor rear extension instead of the north facing first floor windows as there are no side level southerly facing windows proposed in the suite of drawings accompanying this application.
- 7.23.3. In my considered opinion these requirements are reasonable and appropriate as they are consistent with the site and its settings land use zoning which seeks to balance the protection whilst allowing for appropriate improvements to residential amenities in these sensitive to change residential conservation areas. Alongside ensuring that the standards for rear extensions and alterations to existing dwellings as set out under Volume 2 Appendix 18 of the Development Plan are achieved.

8.0 **Appropriate Assessment**

- 8.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not

considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

9.0 Recommendation

- 9.1. Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the Planning Authority under subsection (1) of section 139 of the Planning and Development Act, 2000, (as amended), to AMEND Condition Number 2(a) and (b) as set out below and for the reasons and considerations also set out below.

10.0 Reasons and Considerations

- 10.1. Having regard to the nature and scale of the proposed development, it is considered that condition number 2(a) and (b) is reasonable in order to ensure the proposal overcome the design, bulk and mass, height concerns of the rear first level extension so that it would be a type of development that accords with the 'Z2' land use zoning objective of the site and with the Dublin City Development Plan, 2022 – 2028, standards for this type of development. In the absence of the requirements of Condition No. 2(a) and (b) as set out below the proposed development would, seriously injure the amenities of the area and of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

10.2. Condition No. 2 shall read as follows:

The development shall incorporate the following amendments:

- a) The first-floor rear extension shall have a maximum external depth of 3.5 metres with the roof structure over redesigned to accommodate a flat roof that does not exceed the height of the rear elevation of the host dwelling.

b) The north facing first floor windows of the first-floor rear extension shall be omitted in entirety.

Reason: In the interests of visual and residential amenity.

Patricia-Marie Young
Planning Inspector

21st day of December, 2022.