



An
Bord
Pleanála

Inspector's Report

ABP-317643-23

Development	Part removal, alterations and extension to structure to create dwelling and all associated site works
Location	8, Price's Place, Dublin 6, D06 VH68
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	5290/22
Applicant(s)	Anne O'Neill
Type of Application	Planning Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party Appeal
Appellant(s)	Robert Murphy
Observer(s)	Michael Boyle
Date of Site Inspection	1 st September 2023
Inspector	Susan Clarke

1.0 Site Location and Description

1.1. The rectangular shaped site, which has a stated area of 158 square metres, is situated on the southern side of Price's Place, just north of Ranelagh Village. The site consists of a two-storey structure to the rear of No. 8 Mount Pleasant Square. Adjoining the site is a vacant site which is used for car parking and on the other side is a large single storey structure. The Applicant advises that the site was formerly part of No. 8 Mount Pleasant Square, Dublin 6, a designated Protected Structure.

2.0 Proposed Development

2.1. Permission is sought for alterations and extension including part removal of existing structure to form a new three bedroom (5 bedspaces), two storey residential mews (160.6 sq m) with access on to Price's Place and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Dublin City Council issued a Notification of Decision to Grant Permission on 10th July 2023 subject to 11 No. conditions.

3.1.2. Condition No. 3 requires that the height of the proposed new two storey house shall be reduced to no more than 5.8 meters high. Reason: In the interests of visual and residential amenities.

3.1.3. Further Information was requested by the Planning Authority in relation to (i) the minimum rear garden depth, (ii) boundary treatments, and (iii) bin storage and cycle parking.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The main points of the planner's report include:

- The proposal is considered reasonable given the precedent for mews dwellings on the lane and is consistent with the provisions of the Dublin City Development

Plan 2022 - 2028 and the proper planning and sustainable development of the area.

- Recommends grant of permission.

3.2.3. Other Technical Reports

Drainage Division - no objections, subject to conditions.

Transportation Planning Division - no objections, subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

Three Third-Party Observations from Mount Pleasant Square were received by the Local Authority. The key points raised include:

- Rear garden depth should be increased to 7.5m.
- Overlooking from first floor windows.
- Height should be reduced to match other properties on the lane.
- No details provided regarding proposed materials to be used.
- No bicycle parking/bin storage area provided.
- Provision of boundary treatments

4.0 Planning History

4.1. Reg. Ref. 3845/99: Planning permission sought at Nos. 7 and 8 Mount Pleasant Square/Prices Lane, Ranelagh, Dublin 6 for the demolition of sheds, and the construction of two mews dwellings. Application withdrawn following a request for further information.

5.0 Policy Context

5.1. Dublin City Development Plan 2022-2028

The Dublin City Development Plan 2022-2028 is the operative City Development Plan. The subject site is zoned “Z2” - ‘Residential neighbourhoods (Conservation Areas)’, with the Zoning Objective ‘To protect and/or improve the amenities of residential conservation areas’.

Section 15.11.4 relates to separation distances for houses and states:

At the rear of dwellings, there should be adequate separation between opposing first floor windows. Traditionally, a separation of about 22 m was sought between the rear first floor windows of 2-storey dwellings but this may be relaxed if it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers. Careful positioning and detailed design of opposing windows can prevent overlooking with shorter back-to-back distances and windows serving halls and landings which do not require the same degree of privacy as habitable rooms.

Section 15.13.4 relates to Backland Housing development. This Section states *inter alia*:

“Applications for backland housing should consider the following:....

A proposed backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.”

Section 15.13.5 relates to Mews development.

Policy BHA14: Mews: It is the Policy of Dublin City Council:

“To promote the redevelopment and regeneration of mews lanes, including those in the north and south Georgian core, for sensitively designed, appropriately scaled, infill residential development, that restores historic fabric where possible, and that removes inappropriate backland car parking areas”.

Section 15.11.3 relates to private open space provision for houses: *Private open space for houses is usually provided by way of private gardens to the rear of a house. A*

minimum standard of 10 sq. m. of private open space per bedspace will normally be applied. A single bedroom represents one bedspace and a double bedroom represents two bedspaces. Generally, up to 60-70 sq. m. of rear garden area is considered sufficient for houses in the city. In relation to proposals for house(s) within the inner city, a standard of 5– 8 sq. m. of private open space per bedspace will normally be applied.

5.2. Natural Heritage Designations

The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA. There are no watercourses at or near the site.

5.3. EIA Screening

Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment, and the separation distance from the nearest sensitive location, 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

A Third-Party Appeal was submitted to An Bord Pleanála on 25th July 2023 by Mr Robert Murphy. The grounds of appeal can be summarised as follows:

- The depth of the private open space should be increase from 5.63m to 7.5m as per Section 16.10.10 of the Development Plan.
- Reg. Ref. 3845/99 establishes precedent for the garden size to be 7.5m. No rationale provided as to why this should be overturned.
- Proposal is contrary to Section 15.13.4 with respect to the requirement for a minimum depth of 7m across the site.

- No rationale provided for failure to comply with Section 16.10.16 of the Development Plan.
- A separation distance of 22m could be achieved between the first-floor windows of the opposing properties. Such a proposal would both create a development that is sympathetic to the historical values of the surrounding properties and to not be overly imposing, as well as for the provision of privacy.
- It should be confirmed the western opaque glass panel at first floor level will not be a clear, openable window.
- The eastern first floor window should be opaque to further mitigate overlooking concerns. Only the top section of this window, facing the properties on Mount Pleasant Square should open and that the aperture is limited to 30 degree to avoid overlooking.
- Request that Dublin City Council's Conservation Department also approve the details of the materials, colours and textures of all the external finishes of the proposed development, in addition to the Planning Authority, prior to the commencement of the development.

6.2. Applicant's Response

No response on file.

6.3. Planning Authority Response

The Local Planning Authority requests that the Board uphold its decision and in the event that permission is granted that a condition be attached requiring the payment of Section 48 development contributions.

6.4. Observations

An Observation was received from Michael Boyle in support of the Third-Party Appeal.

6.5. Further Responses

None.

7.0 Assessment

7.1. I have read all the documentation attached to this file including *inter alia*, the appeal, and the reports of the Planning Authority, in addition to having visited the site. Policy BHA14 of the operative City Development Plan sets a generally favourable policy towards mews development, subject to compliance with normal planning criteria and as such, I consider the principle of the development to be acceptable. I note that neither the Appellant nor Observer has opposed the principle of the proposed development. I am generally satisfied with the design approach put forward in this instance and do not consider that it would adversely impact on neighbouring residential properties by way of significant overbearing or overshadowing impacts. I do not consider the proposal to be excessively dominant and I am of the opinion that the massing, scale and height proposed is generally acceptable and as such would not adversely impact on the character of the Protected Structures on Mount Pleasant Street, including No. 8.

7.2. The primary issues relating to this Appeal, as I consider them, are: (i) the depth of the rear garden, (ii) overlooking, and (iii) building materials.

7.3. Depth of the Rear Garden

7.3.1. The Appellant requests that the proposed mews is setback to provide a garden depth of 7.5m with reference to Section 16.10.16 of the Development Plan. On review of the previous (2016-2022) and current (2022-2028) Development Plans, I understand that the referenced Section is contained in the former Plan, not the current Plan. Whilst the former Plan was in force at the time the application was originally lodged to the Local Authority in November 2022, the operative plan now is the 2022-2028 Development Plan.

7.3.2. In the original design proposal submitted to the Local Authority, the eastern section of the rear garden had a depth of 4.66m, while the western section had a garden depth of 6.456m. Following a request from the Local Authority to increase the depth of the garden, the Applicant increased the depth of the eastern section to 5.63m and the western section to 7.1m.

7.3.3. Section 16.10.16 addressed 'Mews Dwellings' in the former 2016-2022 Development Plan. Subsection j stated that the rear garden depth should not be less than 7.5m

unless it is demonstrably impractical to achieve and shall not be obstructed by off-street parking.

7.3.4. Section 15.13.5 in the current Development Plan addresses 'Mews' development, but does not make any specific reference to garden depth.

7.3.5. As outlined above, Section 15.13.4 in the current Plan states that applications for backland housing should consider a minimum rear garden depth of 7 metres. I highlight that this is not a mandatory requirement for backland housing. The proposal is consistent with the 7m minimum depth, (notwithstanding that, in my opinion, the development proposal is more appropriately described as a mews style development rather than backland development). More importantly, the proposed development is consistent with Section 15.11.3 of the Development Plan that requires: "*A minimum standard of 10 sq. m. of private open space per bedspace will normally be applied.*" (i.e. 55 sq m is proposed). As such, the proposal is compliant with the relevant planning standard for the total quantum of private open space. In addition, I do not consider that a further setback of the rear elevation of the mews would have any material bearing on the amenity of the adjoining residents nor would it have any impact (positive/negative) on the character of the Protected Structures on Mount Pleasant Street, including No. 8. Having regard to the foregoing, I do not recommend that the Board require that the garden size depth is increased, should permission be granted.

7.3.6. The Appellant argues that Reg. Ref. 3845/99 establishes precedent for a garden depth of 7.5m. Notwithstanding that each application is assessed on its own merits, the Planner's Report for the subject case highlights that Reg. Ref. 3845/99 was withdrawn following a request for further information, and as such, no final decision was issued in respect of the 1999 case. Therefore, this permission does not establish precedent in my view.

7.4. **Overlooking**

7.4.1. Again with reference to the former Development Plan, the Appellant states that Section 16.10.2 (Residential Quality Standards – Houses) requires a separation distance of 22m between the rear of two-storey dwellings, where possible. Similarly, Section 15.11.4 makes reference to the 22m separation distance, but states that "*this may be relaxed if it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers*". The revised scheme

allows for a separation distance of 20m between the eastern section of the rear wall and No. 8 Mount Pleasant Street and 24.5m between the western section of the rear wall and No. 8 Mount Pleasant Street. Dwg. No. B0130-A-011 states that the eastern window at first floor level will be constructed with opaque glazing, while the western window at first floor level will have a privacy screen. Privacy screens are also proposed on the western elevation adjacent to No. 10 Price Place.

7.4.2. The Appellant requests that the eastern window on the southern elevation at first floor level should not be openable. This window serves Bedroom 3. This Bedroom is also served by a window with privacy screens on the western elevation. In addition, the Appellant requests that the western window on the southern elevation at first floor level should be constructed with opaque glazing and that only the top section of the side component be openable and that the aperture is limited to 30 degree. This is the only window serving Bedroom 2.

7.4.3. I highlight that the 22m separation distance referenced in the Development Plan is guidance only, not a mandatory requirement. Having regard to the separation distance proposed between the rear elevation of the mews and No. 8 Mount Pleasant Square (20-24m), and the proposed window treatments (a mix of opaque glazing and privacy screens), significant overlooking of the neighbouring properties will not occur. As such, I do not consider it necessary to amend the window treatments as proposed.

7.5. **Building Materials**

7.5.1. The Appellant requests that should planning permission be granted, that the details of the materials, colours and textures of the external finishes be agreed with the Local Authority's Conservation Officer. I highlight that the Conservation Officer made no comments during the assessment of the application. As such, and acknowledging the scale of the proposed development and detail provided with the planning application, I do not consider it necessary to specify that the Conservation Officer approve the final details.

7.6. **Conclusion**

7.6.1. Having regard to the limited extent, height and design solution proposed, I am satisfied that the proposed development is in accordance with the zoning objective (Z2) of the Dublin City Development Plan 2022-2028, which seeks 'To protect and/or improve the amenities of residential conservation areas', will not adversely impact neighbouring

residential amenity or the character of No. 8 Mount Pleasant Square (a Protected Structure) and is in accordance with the proper planning and sustainable development of the area.

8.0 **Appropriate Assessment**

Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

9.0 **Recommendation**

I recommend permission be GRANTED subject to conditions.

10.0 **Reasons and Considerations**

Having regard to the site's residential zoning under the Dublin City Development Plan 2022-2028, Policy BHA14 promoting the regeneration and redevelopment of mews lanes and to the standards for the development of mews houses set out in section 15.13.5 of that Plan, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the character of the area or the amenities of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 **Conditions**

1.	The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by Further Information received by the planning authority on 13 th June 2023, 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
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	<p>to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity</p>
2.	<p>The height of the proposed new two storey house shall be reduced to no more than 5.8 meters high.</p> <p>Reason: In the interests of visual and residential amenities.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
5.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.</p> <p>Reason: In the interests of visual and residential amenity.</p>
6.	<p>Prior to the commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Eireann.</p> <p>Reason: In the interest of public health.</p>
7.	<p>Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p>

	Reason: In the interest of public health and surface water management.
8.	The developer shall comply with all requirements of the planning authority in relation to transport and traffic matters. Reason: In the interests of public safety.
9.	That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works. Reason: To protect the amenities of the area
10.	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

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Susan Clarke
Senior Planning Inspector

4th September 2023