



An  
Bord  
Pleanála

## Inspector's Report

**ABP-319200-24**

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<b>Development</b>	PROTECTED STRUCTURE: two storey dwelling to rear of Protected Structure
<b>Location</b>	Rear of 35 Mountpleasant Square, (Protected Structure), Mount Pleasant Avenue Upper, Ranelagh, Dublin 6
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	4946/23
<b>Applicant(s)</b>	Zara Kenny
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Zara Kenny
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	21 <sup>st</sup> May 2024
<b>Inspector</b>	Bernard Dee

## 1.0 Site Location and Description

- 1.1. The appeal site is located to the rear of 35 Mountpleasant Square (Protected Structure) which is located in the SW corner of an early Victorian residential development. Mountpleasant Square is located to the north of Ranelagh village and to the south of the Grand Canal and lies west of Ranelagh Road (R117). The appeal site has a stated area of 103m<sup>2</sup> and is formed by the subdivision of the rear garden area of 35 Mountpleasant Square which is a nineteenth century, three bay, two storey over basement townhouse with a two-storey return.
- 1.2. 35 Mountpleasant Square has recently been refurbished and extended and is currently unoccupied and for sale. As part of the refurbishment works a dividing wall has been erected in the rear garden area to distinguish the amenity space associated with 35 Mountpleasant Square from the vacant appeal site.
- 1.3. This wall defines the eastern boundary of the appeal site while the south boundary is defined by the garden wall fronting the passage between Mountpleasant Square and Mount Pleasant Avenue to the west of the appeal site. To the north, the appeal site boundary is defined by the party wall with 34 Mountpleasant Square (also a Protected Structure).

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a two bedroom, two storey dwelling to the rear of 35 Mountpleasant Square in a contemporary architectural style with a GFS of 82.5m<sup>2</sup>. The proposal involves the demolition of the existing rear and side boundary walls with associated site works, bin stores, bicycle parking and landscaping.
- 2.2. The proposed dwelling has an irregular footprint with a chamfered corner to match the site configuration and it is proposed to accommodate a kitchen/dining/living area, bedroom and bathroom as well as a rectangular courtyard amenity/access area at ground floor level with a bedroom and ensuite bathroom at first floor level.

- 2.3. A maximum height of 5.91m is indicated on the elevation drawings and an off-white render is proposed for the lower elevations and a wood panel finish for the upper level. The distance between the rear elevation of No. 35 (excluding return) and the lower floor line of the proposed dwelling is stated to be just over 11m.

### 3.0 Planning Authority Decision

#### 3.1. Decision

A refusal of permission was issued by the Planning Authority on 7<sup>th</sup> February 2024 for 1 no. reason:

*Having regard to the Z2 residential conservation zoning objective and its location on a restricted site in the grounds of a Protected Structure, it is considered that the proposed part two storey infill dwelling, by reason of its design, scale and external finishes, would negatively impact on the character and setting of the Protected Structure, and would be visually obtrusive when viewed from the adjoining properties along Mountpleasant Avenue Upper. The development would also therefore negatively affect the special character and appearance of the Protected Structures, given the separation distances of the first floor from the neighbouring sites, and as such would be contrary to Policy BHA2 which seeks to ensure development conserves and enhances Protected Structures and their curtilage and Policy BHA9 of the City Development Plan 2022-2028 which seeks to protect the special interest and character of all Dublin's Conservation Areas . The proposed development is therefore considered contrary to the proper planning and sustainable development of the area.*

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Report

The Planner's Report notes the following in relation to the proposed development:

- The proposed development is located within an area subject to the Z2 zoning objective which seeks to protect and/or improve the amenities of residential conservation areas. The principle of residential development is accepted

within this zoning objective subject to compliance with the development standards set down in the Dublin City Development Plan 2022-2028.

- The key considerations for this new revised residential development would be visual impact, including the character of the area, impacts on existing residential amenity, the level of residential amenity afforded by the proposed dwelling, traffic safety and any impacts on the protected structure, as the property is considered to be within the curtilage of the Protected Structure.
- While the Planning Authority is cognisance of the need to provide for intensification of development within the City, the concern will be that the proposal for a two bed part 2 storey residential property to the rear of the Protected Structure whereas previously permission has been granted for a single storey dwelling at this location which has a lower impact on the residential amenity of the area.
- There is serious concern in relation to the rendered finish given the prominence of the site, and the compatibility with the neighbouring sites historic fabric and when compared to the previous permission where it was proposed to use recycled stone from the existing wall with lime based mortar.
- The façade material is out of context with the existing environs and that the terrace area at first floor level is also inappropriate in design terms within the streetscape. It is considered that the position of the additional floor not only negatively impacts on the Protected Structure to the front of the site but also on the character of the area within which the site is located.
- The proposed internal standards of accommodation as set down in the Development Plan are met but the proposed development is deficient in private open space provision.
- No car parking is proposed as part of this development, the principle of which was accepted under Reg. Ref. 2919/20.
- Neither EIA nor AA are required in relation to the proposed development.

### 3.2.2. Other Technical Reports

- The Drainage Department and the Transportation Planning Division have no objection to the proposed development subject to appropriate conditions.
- No report was received from the Conservation Section.

### 3.2.3. Prescribed Bodies

- No responses received.

### 3.2.4. Observations

- None received.

## 4.0 Planning History

### 4.1. On the Appeal Site

- ABP-308121-20 (2919/20): Permission was granted on 19th January 2021 by the Board on appeal for the construction of a single storey mews dwelling of 80m<sup>2</sup> GFS to the rear of 35 Mountpleasant Square, including the demolition of a rear garage building of 32m<sup>2</sup> GFS, subject to 6 no. conditions.

The reasons and considerations for overturning the Planning Authority refusal of permission were set down in the Board Order as follows:

*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 having regard 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 structure, 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.*

- Ref. 4730/18: Permission was refused on the appeal site on 19th February 2019 for a two bedroom with study, two storey dwelling with a GFS 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. Two reasons for refusal were issued, the first relating to overdevelopment of the site and the consequent adverse impact on the visual and heritage amenity of the area, and the second reason for refusal related to the potential traffic hazard associated with the proposed vehicular access to the site.

#### 4.2. In the Vicinity of the Site

- Ref. 3030/19: Permission was granted on 21<sup>st</sup> November 2019 subject to 7 no. conditions for works to 35 Mountpleasant Square to the east of the current appeal site. Works included a two storey extension to the rear (basement and ground levels), the lowering of ground levels in the basement and works to the boundary wall. Condition No. 2 of this grant of permission required the following:

*Prior to the commencement of development, the applicant shall submit revised plans, particulars and details, which modify the proposed development. These modifications shall be agreed in writing with the planning authority and the proposed development shall be carried out in accordance with this agreement. The modifications to the proposed development shall adhere to the following: a) The proposed subdivision of the rear garden of No. 35 Mountpleasant Square shall be omitted from the proposal. Reason: To protect the character and integrity of the protected structure.*

- Ref. 4731/18: Planning permission was refused on 22<sup>nd</sup> February 2019 for the erection of a 2 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. The reason for refusal stated the following:

*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 and Context

- 5.1. The relevant Development plan is the Dublin City Development Plan 2022-2028. The subject site has the Land Use Zoning Objective Z2 'To protect and/or improve the amenities of residential conservation areas'. The site is adjacent to a Protected Structure.

Chapter 11 – Built Heritage and Archaeology

Development of Protected Structures

It is the Policy of Dublin City Council: BHA2 - That development will conserve and enhance protected structures and their curtilage and will:

- (a) Ensure that any development proposals to protected structures, their curtilage and setting shall have regard to the Architectural Heritage Protection Guidelines for Planning Authorities (2011) published by the Department of Culture, Heritage and the Gaeltacht.

- (b) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- (c) Ensure that works are carried out in line with best conservation practice as advised by a suitably qualified person with expertise in architectural conservation.
- (d) Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.
- (c) Ensure that the form and structural integrity of the protected structure is retained in any redevelopment and ensure that new development does not adversely impact the curtilage or the special character of the protected structure<sup>1</sup>.
- (d) Respect the historic fabric and the special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials.
- (e) Ensure that new and adapted uses are compatible with the architectural character and special interest(s) of the protected structure.
- (f) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features. (g) Ensure historic landscapes, gardens and trees (in good condition) associated with protected structures are protected from inappropriate development.
- (h) Have regard to ecological considerations for example, protection of species such as bats

#### Policy BHA9 - Conservation Areas

To protect the special interest and character of all Dublin's Conservation Areas – identified under Z8 and Z2 zoning objectives and denoted by red line conservation hatching on the zoning maps. Development within or affecting a Conservation Area

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<sup>1</sup> **Inspector's Note:** Policy BHA2 – the repeat policies (c) and (d) on page 349 of the Development Plan are mislabelled but do in fact relate to different sub-policies of Policy BHA2.



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.

Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.
2. Re-instatement of missing architectural detail or important features.
3. Improvement of open spaces and the wider public realm and reinstatement of historic routes and characteristic plot patterns.
4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.
5. The repair and retention of shop and pub fronts of architectural interest.
6. Retention of buildings and features that contribute to the overall character and integrity of the Conservation Area.
7. The return of buildings to residential use. Changes of use will be acceptable where in compliance with the zoning objectives and where they make a positive contribution to the character, function and appearance of the Conservation Area and its setting.

The Council will consider the contribution of existing uses to the special interest of an area when assessing change of use applications, and will promote compatible uses which ensure future long-term viability.

#### 15.15.2.2 Conservation Areas

Conservation Areas include Z8 (Georgian Conservation Area) and Z2 (Residential Conservation Area) zones, as well as areas identified in a red hatching on the zoning maps which form part of the development plan. These red-hatch areas do not have a specific statutory protection but contain areas of extensive groupings of buildings, streetscapes, features such as rivers and canals and associated open spaces of historic merit which all add to the special historic character of the city. All planning applications for development in Conservation Areas shall:

- Respect the existing setting and character of the surrounding area.

- Be cognisant and/ or complementary to the existing scale, building height and massing of the surrounding context.
- Protect the amenities of the surrounding properties and spaces.
- Provide for an assessment of the visual impact of the development in the surrounding context.
- Ensure materials and finishes are in keeping with the existing built environment.
- Positively contribute to the existing streetscape Retain historic trees also as these all add to the special character of an ACA, where they exist.

## 5.2. Natural Heritage Designations

There are three natural heritage designations located approximately 3.75km east of the appeal site - South Dublin Bay and River Tolka Estuary SPA (004024), South Dublin Bay SAC (000210) and South Dublin Bay pNHA (000210).

## 5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any 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. The First Party grounds of appeal are, in summary, as follows:

- The First Party do not accept that the proposed development would have a negative impact on the character of the area nor on the setting of 35 Mountpleasant Square which is a Protected Structure. The Board's attention is directed to photomontages of the proposed dwelling submitted with the First Party appeal.

- The proposed dwelling is of a high quality contemporary design and is finished in materials sympathetic to its context but also permitting a distinction to be made between the historic context and the new build elements of the townscape.
- The sub-division of the rear garden area has already been permitted and the principle of development on the appeal site for residential purposes has been established by the planning history of the site. The only difference between the previously permitted dwelling on the site and the dwelling under appeal is the addition of a small (20.5m<sup>2</sup>) addition at first floor level which provides some vertical emphasis at this corner site for urban design benefits.
- The proposed dwelling is certainly visible but is not visually obtrusive as the zone of visual influence associated with the appeal site is quite restricted and the concern of the Planning Authority in terms of visual obtrusion appears to rest upon the proposed materials of the structure rather than the scale and massing of the proposed building per se.
- The First Party believe that the finished as proposed will help assimilate the proposed dwelling into the streetscape but also in urban design terms, introduce a contemporary building into the urban grain without upsetting the historic urban character of the area.
- The existing visual environment is of poor quality with the dilapidated boundary walls of the site and the graffiti evident on building in the locality. The proposed dwelling would not only enhance the visual amenity of the area but would also reduce the instances of graffiti in the area due to the passive surveillance associated with a dwelling at this junction location.
- The screen at first floor level is proposed to prevent overlooking of the rear area of 34 Mountpleasant Square to the north. It is not felt that this screen has a detrimental impact on the visual or historic amenity of the area.
- While the First Party is of the view that the finish as proposed is appropriate to the context of the proposed dwelling, an alternative design featuring stone at the ground floor level and zinc cladding on the upper floor is shown on drawings submitted with the appeal for the Board's consideration if required.

## 6.2. Planning Authority Response

- The Planning Authority have requested that the Board uphold the decision to refuse permission but in the event of a grant issuing from the Board, that a condition requiring the payment of a Section 48 contribution be applied.

## 6.3. Observations

- No Observations have been received in relation to this appeal.

## 7.0 **Assessment**

7.1. Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The assessment below therefore addresses the potential visual impact associated with the proposed dwelling and the consequent effect on the setting of 35 Mountpleasant Square and other Protected Structures in the area and the character of the streetscape where the appeal site is located. The issue of AA Screening is also addressed in this assessment.

### 7.2. Visual Impact

7.2.1. The Planning Authority reason for refusal is grounded in the belief that the visual impact associated with the proposed dwelling, due to the visually prominent location, proximity to Protected Structures and the scale, mass, finishes and design, would be negative in nature and would consequently have a detrimental impact on the setting of Protected Structures, the character of the area and the streetscape.

7.2.2. The First Party counters this view by stating that the proposed dwelling is of a high architectural design quality and is an appropriate design response to its context. In addition, the First Party contends that the proposed dwelling would contribute positively to the streetscape and would not be detrimental to the setting of Protected Structures in the area.

7.2.3. Having regard to the above and having reviewed all documents on file and visited the appeal site, I would consider that the arguments put forward by the First Party in favour of the proposed dwelling outweigh the arguments of the Planning Authority against. My reasoning for this opinion is set down below.

- 7.2.4. Firstly, the principle of a residential development at the appeal site is acceptable given the Z2 zoning of the site and also having regard to the planning history of the site where a single story dwelling has been permitted on appeal by the Board but also noting that the Planning Authority has refused planning permission for a two storey dwelling on the appeal site which was not appealed to the Board by the First Party.
- 7.2.5. The issue of an appropriate design for this specific location is a sensitive topic. Regard must be had to the historic setting of the site adjacent to Protected Structures on three sides and located at a prominent streetscape junction due to its corner location. The design approach adopted by the First Party of a contemporary architectural style is I believe the correct approach. The pastiche option, which is hinted at by the Planning Authority in references to the stone finish proposed for the one story dwelling permitted by the Board, would not be in line with conservation principles regarding the need for a contemporary stamp on new building in historic areas or for works/extensions to Protected Structures.
- 7.2.6. The use of a smooth off-white render for the ground floor facades will assist in visually articulating the corner which is visible from Mount Pleasant Avenue Upper and also from Richmond Place to the west of the appeal site. The use of painted render is appropriate for the location of the appeal site as it is relatively neutral in appearance and while being visible in the streetscape, would not register as being visually obtrusive.
- 7.2.7. The use of zinc cladding along the parapet course I would also consider to be an appropriate treatment of this detail in a contemporary dwelling. The use of Woodfac panels to clad the upper floor facades is also appropriate to the context of the building and the colour and detailing of which can be conditioned for agreement with the Planning Authority.
- 7.2.8. The alternative design of finish submitted by the First Party with the appeal and illustrated in a photomontage is, to my mind, an inferior design solution than the original design refused by the Planning Authority. The alternative proposal of a stone faced lower and a zinc clad upper floor does not sit well in the streetscape and is visually discordant in its own right. If the Board is minded to grant permission in

this instance then I would recommend that the original and not the alternative design be approved by the Board.

7.2.9. Other aspect of the design of the dwelling, notwithstanding some minor deficiencies in internal space standards, are acceptable and should provide future occupants with a good standard of accommodation. The issue of overlooking of neighbouring properties or the occupants of the proposed dwelling themselves being overlooked has, in my opinion, been sufficiently addressed by the design of in-built mitigation measures in the proposed dwelling. As no car parking is provided the issue of traffic hazard does not arise. The construction of a dwelling at this location is in line with stated Government policy to densify existing urban areas in the interests of sustainability and combatting climate change.

### 7.3. AA Screening

Having regard to the relatively minor development proposed within an existing urban area and the distance from 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 a European site.

## 8.0 Recommendation

I recommend that permission be granted for the reasons set out below and subject to compliance with the conditions hereunder.

## 9.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2022-2028, including the location of the subject site within the curtilage of a Protected Structure and in close proximity to other Protected Structures, it is considered that the proposed development would not injure the visual or residential amenities of the area, or of property in the vicinity, nor have an adverse impact on the setting of Protected Structures or the streetscape of the area and would provide an acceptable standard of amenity for future occupants. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 6<sup>th</sup> day of December 2023 and, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all the external finishes of the proposed development 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>
3.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>

4.	<p>Surface water from the site shall not be permitted to drain onto the adjoining public road.</p> <p>Reason: In the interest of traffic safety.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<p>The developer shall pay to the planning authority a financial contribution of 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. The application of any indexation required by this condition 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.</p> <p>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.</p>



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.

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**Bernard Dee**  
**Planning Inspector**

**29<sup>th</sup> May 2024**

**Appendix 1 - Form 1**  
**EIA Pre-Screening**  
**[EIAR not submitted]**

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-319200-24		
<b>Proposed Development Summary</b>	Two storey dwelling to rear of Protected Structure		
<b>Development Address</b>	35 Mountpleasant Square, Mount Pleasant Avenue Upper, Ranelagh, Dublin 8		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	√
		<b>No</b>	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	√		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			

		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	√			Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	√	Preliminary Examination required
Yes		Screening Determination required

Inspector: \_\_\_\_\_

Date: 29<sup>th</sup> May 2024

Bernard Dee