



An
Bord
Pleanála

Inspector's Report

ABP-321028-24

Development

PROTECTED STRUCTURE:

Permission for reconstruction of existing upper ground floor extension to the rear, construction of a new two-storey extension to the rear, new outdoor terrace to the rear at upper ground floor level, with steps down to back garden level, internal alterations, relocation of the side door on the east façade, new rooflight to the rear, removal of existing shed, construction of a new shed in the back garden and all associated site works.

Location

53 Kenilworth Square South, Dublin 6

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

3545/24

Applicant(s)

Tanya Bailey

Type of Application

Planning Permission

Planning Authority Decision

Grant permission with 10 no. conditions

Type of Appeal

Third Party

Appellant(s)

Declan Sheehan

Date of Site Inspection

13th March 2025

Inspector

Sarah O'Mahony

Contents

1.0 Site Location and Description	5
2.0 Proposed Development	5
3.0 Planning Authority Decision	6
3.1. Further Information	6
3.2. Decision	7
3.3. Planning Authority Reports	7
3.4. Prescribed Bodies	8
3.5. Third Party Observations	8
4.0 Planning History	9
5.0 Policy Context	9
5.1. Development Plan	9
5.2. Section 28 Guidelines: Sustainable Residential Development and Compact Settlement Guidelines	10
5.3. Section 28 Guidelines: Architectural Heritage Protection Guidelines for Planning Authorities	10
5.4. Natural Heritage Designations	11
5.5. EIA Screening	11
6.0 The Appeal	12
6.1. Grounds of Appeal	12
6.2. Applicant Response	13
6.3. Planning Authority Response	15
7.0 Assessment	15
7.2. Principle of the Development	16
7.3. Impact to Protected Structure	17

7.4. Visual Impact	20
7.5. Overlooking.....	20
7.6. Construction Access	21
8.0 AA Screening.....	22
9.0 Recommendation.....	23
10.0 Reasons and Considerations.....	23
11.0 Conditions	23
Appendix 1 – Form 1: EIA Pre-Screening	

1.0 Site Location and Description

- 1.1. The site is situated on the south side of Kenilworth Square in the Rathgar/Rathmines area of Dublin. The square comprises a mid-late 1800s (Victorian) trapezoid shaped open space surrounded on all four sides by two to three storey red brick dwellings, many of which are two storey over basement/lower ground floor with the upper ground floor reached by a flight of steps. The dwellings are set back from the public road in a mix of detached, semi-detached and terraced structures.
- 1.2. The 807.5m² site is situated along the southern side of the square at no. 53 Kenilworth Square. It comprises a three-storey structure with the upper ground floor reached via a staircase and a total floorspace of 346.06m². It has a centrally positioned pedestrian entrance from Kenilworth Square with pedestrian access provided to both sides. There is another access situated at the rear of the site from Garville Lane comprising a narrow lane running alongside a mews dwelling, no. 101 Garville Lane. The dwelling forms the side boundary of the laneway and I note there is no physical boundary between the laneway and the front private open space of the mews dwelling. The laneway is 2.65m in width and accessed via an arch 2m in height and therefore could accommodate some limited vehicular traffic
- 1.3. No. 53 is a pitched roof, L-shaped building with a three storey return and two storey extension to the rear. It is a protected structure with the reference number RPS 4147 in the Dublin City Record of Protected Structures. It has three bays to the front and rear with a round headed window with fanlight at the top of the external staircase on the front elevation. There is an area of private open space to the rear and all adjoining land to the east, west and south is in residential use.

2.0 Proposed Development

- 2.1. Planning permission is sought for development which comprises the following:
 - Demolition and reconstruction of existing lower and upper ground floor extension to the rear,
 - Construction of a new two storey extension to the rear providing 19.7m² additional floorspace.

- New 7m² outdoor terrace to the rear at upper ground floor level, with steps down to back garden level,
- Internal alterations,
- Relocation of the side door on the East façade,
- New rooflight to the rear,
- Removal of existing 5.3m² shed and construction of a new 11.25m² shed in the back garden and
- All associated site works.

3.0 Planning Authority Decision

3.1. Further Information

3.1.1. The Planning Authority requested 2no. further information summarised as follows:

- Clarify the planning status of the existing rear extension.
- Submit revised drawings illustrating the following:
 - Retention of existing render on the rear elevation.
 - Omit the first-floor bathroom over the entrance hall.
 - Retaining the existing opening on the upper ground floor living room including architrave, soffit and shutters. Photographic evidence and narrative to be submitted of the existing glass overligh and a determination if it is original or reproduction.
 - Retain the upper ground floor living room as a reception (living) room and provide a refurbished/replacement kitchen in its current location at the lower ground level.
 - Determination of the original rear window type to provide an evidence base for the new proposed sash windows.
 - Photographic evidence of the proposed heritage type rooflight.

- 3.1.2. The Applicant responded by demonstrating that the existing extension is a pre-1963 structure and therefore exempt from any regularisation requirement.
- 3.1.3. Regarding the requested alterations, the Applicant submitted a detailed justification not to incorporate the majority of the changes requested. The point regarding retention of the existing rear opening to the upper ground floor living room was incorporated however and the requested photographic and illustrative details were submitted.

3.2. **Decision**

- 3.2.1. A notification of decision to GRANT planning permission was issued by Dublin City Council (the Planning Authority) on 12th September 2024 subject to 10 conditions including no. 4 as follows:

“4. Prior to the commencement of development the applicant/developer shall submit details for the written agreement of the Planning Authority in relation to the provision of screening from the terrace.

Reason: In the interest of residential amenity and to prevent any overlooking to the adjoining property.”

3.3. **Planning Authority Reports**

3.3.1. Planning Reports

- The Planners report recommendation to grant permission is consistent with the notification of decision which issued.
- The report discussed the scale of the proposed development and its impact on the protected structure as well as adjoining residential amenity, in the context of observations received which raised amenity issues. Further information was sought as set out above which was considered acceptable.
- Appropriate Assessment (AA) and Environmental Impact Assessment (EIA) issues are both screened out.

3.3.2. Other Technical Reports

- Conservation Officer: Two reports received, one recommending further information with the latter assessing the response and setting out conditions to be attached in the event of a grant of permission including a condition requiring a number of details to be agreed in advance of works commencing including construction methodologies and ventilation strategies. This condition was not carried through to the recommendation to grant permission on the planners report however with no justification set out as to why this was the case.
- Engineering Department – Drainage Division: One report received at the application stage stating no objection subject to standard conditions.

3.4. Prescribed Bodies

The application was referred to the following however no response was received:

- Irish Water
- Fáilte Ireland
- An Chomhairle Ealaíon
- An Taisce
- Department of Housing, Local Government and Heritage

3.5. Third Party Observations

Two submissions are received from Declan Sheehan and Martin & Nollaig Kelleher. The issues raised are summarised as follows:

- Potential use of laneway from Garville Lane for construction access to the site and concern regarding physical impacts to third party property as well as impacts to residential amenity of the area. Request made to require the preparation of a Construction Management Plan and omit construction access from Garville Lane.
- Overlooking and impact to residential amenity and privacy to dwellings to the rear and side which is contrary to Section 1.4 of Appendix 18 of the Dublin City Council Development Plan 2022-2028 which generally prohibits roof terraces. Request made to omit the terrace and stairs.
- No requirement for the terrace and external stairs.

- Impact to protected structure and adjacent protected structure. Two storey return and rear elevation are incongruous. Modern intervention will be highly prominent and visible.
- Two storey extension would materially impact on the daylight and sunlight provision of the adjacent property. Request made for a Daylight and Sunlight Assessment and to reduce the depth of the extension in line with the existing building line.
- Precedent set for similar upper ground floor terraces in the area.
- Unauthorised existing extension.
- Lack of consultation.

4.0 Planning History

The following planning history relates to the subject site:

- 2213/01: Planning permission granted for 3 no. mews dwellings and relocation of vehicular access to rear.
- 3864/00: Planning permission refused for 2. No. mews dwellings.
- 1322/98: Planning permission refused to widen the existing gateway to provide vehicular access and off-street parking.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2022-2028 (referred to hereafter as the CDP). The site is zoned Z2 for Residential Neighbourhoods (Conservation Area) where the objective is *to protect and/or improve the amenities of residential conservation areas*. It goes on to say that ‘*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.'

- 5.1.2. Policy BHA2, as set out in Chapter 11, seeks to conserve and enhance protected structures and their curtilage through a range of measures including (b) to protect structures included on the RPS from any works that would negatively impact their special character and appearance and (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. The full text of policy BHA2 is attached to the report.
- 5.1.3. Appendix 18 of the plan sets out development management guidelines for ancillary residential accommodation and section 1.4 states:

'There will be a general presumption against the development of rear balconies and roof terraces. However, in inner urban areas, where there are limited opportunities for ground floor amenity provision, innovative design solutions for private amenity space will be considered on a case-by-case basis where it can be demonstrated that provision of same would not have a significant adverse impact on the residential amenities of adjacent properties.'

5.2. Section 28 Guidelines: Sustainable Residential Development and Compact Settlement Guidelines

- 5.2.1. The guidelines, hereafter referred to as the Compact Settlement Guidelines, set out a context to create higher density settlements to underpin sustainable development principles. Specific Planning Policy Requirements (SPPRs) are set out including SPPR 1 which refers to minimum standards for separation distances between residential units and opposing windows in habitable rooms.

5.3. Section 28 Guidelines: Architectural Heritage Protection Guidelines for Planning Authorities

- 5.3.1. Appendix B of the guidelines sets out guidance on how to carry out Architectural Heritage Impact Assessments. Section B2.0 refers to the scope of the assessment and states:

“The object of the assessment should be to describe how the proposals would affect the character of the protected structure or any part of it. This will normally require a description of the existing structure, a description of the works proposed and a description of how any potential adverse impact on the architectural heritage is to be mitigated.

Where comprehensive or wide-ranging works are proposed, the entire protected structure and the land and features within its curtilage may require to be included in the assessment. However, where proposals are limited in scale or relate to a specific part or parts of the structure, it will generally be sufficient to include a brief description of the structure as a whole, to provide a context for the proposals, but to concentrate the detailed assessment on those parts of the structure which will be impacted upon. If the application relates to a new building within the curtilage of a protected structure or proposed protected structure, the assessment should concentrate on the relationship between the structure and its setting, and the merits of, and impacts on, existing structures and features in the curtilage.”

5.4. Natural Heritage Designations

The site is situated 4.6km west of South Dublin Bay Special Area of Conservation and proposed Natural Heritage Area as well as South Dublin Bay and River Tolka Estuary Special Protection Area.

5.5. EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

6.0 The Appeal

6.1. Grounds of Appeal

One appeal is received from Declan Sheehan which raises the following grounds of appeal:

- Construction access from Garville Lane would be inappropriate for reasons including proximity to the Appellants property, impact on amenity, lack of car parking, alternative access and inhabited nature of the main dwelling. The Planning Authority failed to condition out the use of Garville Lane for construction access as requested and failed to have proper regard to the objection received regarding same. The appeal goes on to say the Planning Authority *'has erred in its functions in failing to impose the requested condition, which is contrary to the proper planning and sustainable development of the area.'*
- The two-storey extension would materially impact upon the privacy of the Appellant's property. References made to overlooking from new large windows with Juliet balconies on the rear elevation as well as the proposed terrace.
- The two-storey extension would be visual intrusive and affect the setting of the protected structure by dominating the rear façade.
- First floor fenestration alterations are a strong incongruous design which would negatively impact the character of the protected structure and the *'degree and perception of aforementioned overlooking will be further increased by the scale and size of the upper ground floor windows'*.
- The external terrace and stairs are unnecessary. They would facilitate overlooking and be contrary to and would materially contravene Section 1.4 of Appendix 18 and the residential conservation area zoning of the Dublin City Development Plan 2022-2028. It would negatively impact the setting and character of the protected structure. References made to planning history and precedence set in the area for omitting such proposals. The Case Planners report does not elaborate on why a departure from local guidance is acceptable or what is the basis for considering it to be 'modest'. The appeal considers this is an irrelevant consideration.

- The appeal submits that the Architectural Heritage Impact Assessment received with the application is incomplete as it does not reference the mews dwellings situated to the rear of the site on Garville Lane.

6.2. Applicant Response

- 6.2.1. The response submits that the appeal is vexatious and provides documentary evidence of a draft agreement, to be agreed between the Applicant and the Appellant, agreeing to withdraw the appeal once the rear laneway from Garville Lane was not used for construction access. The Agent suggests the appeal should be dismissed under Section 138 of the Planning and Development Act 2000 (as amended) however An Bord Pleanála responded to the Agent to inform them that *‘the Board is satisfied that the appeal meets all the criteria as set out through Section 127 of the Planning and Development Act 2000 (as amended). The appeal process shall continue until determination.’* Please refer to correspondence on the file in this regard.
- 6.2.2. The Agent also submits that this draft agreement demonstrates that the Appellant is only concerned with the potential use of the laneway for construction access, and that the remaining items regarding visual impact and overlooking are not genuine appeal topics.
- 6.2.3. The Applicant’s response to the grounds of appeal is set out below:
 - The Planning Authority fulfilled all requisite statutory obligations and the Appellant’s observation was considered appropriately in the Case Planners report and recommended conditions.
 - The appeal response outlines engagement between the Applicant and Appellant regarding construction access from Garville Lane. Restrictions were set out by the Appellant in a draft agreement including that the main construction access would be from Kenilworth Square and no construction work including storage of plant or machinery would occur in the private laneway to Garville Lane save for ‘exceptional construction access’ which would require prior notification. The response suggests a temporary timber fence could be erected alongside the laneway to separate it from the Appellants property to obscure views. The response considers condition nos. 7,8 and 9 are the appropriate avenue to deal with construction matters and further

submits that the Applicant would have no objection to an additional condition requiring preparation of a Construction Management Plan (CMP).

- The nature of the laneway access from Garville Lane is highlighted as a natural restriction to construction access as the archway entrance is 2m in height and 2m in width.
- Any disruption to the Appellant as a result of utilising the laneway would be minimal and not damage the adjacent property.
- Refute claims that the two-storey extension is visually obtrusive and would materially impact upon privacy, submitting that the 19.67m² additional floor space is modest in scale with minimal interventions proposed. The response highlights positive commentary in the Conservation Officers report which concludes that the extension would not negatively impact the rear elevation. It also submits that the extension would have a positive impact on the character and standard of accommodation provided as higher quality materials will replace the current poor-quality extension.
- Regarding separation distances, the extension is designed to retain significant separation distances of 32.69m between opposing first floor windows and 23m to the property boundary, exceeding minimum standards.
- The response submits that the 7m² terrace is modest in scale and exceeds all minimum separation requirements. Request made to put aside the Appellants argument and submit that the terrace would improve residential amenity of future occupants. It contends that overlooking would not occur to adjoining properties. It also contends that the design and layout of the terrace with the separation distances proposed, complies Section 1.4 of Appendix 18 of the City Development Plan where it states innovative design solutions would be considered to counteract the previously mentioned general prohibition against roof terraces and rear balconies.
- The response highlights extracts from historical mapping which illustrates a staircase providing access to the garden from the first floor/upper ground floor as well as similar structures in neighbouring properties. It states the Applicant is seeking to re-establish this historical connection but in a more meaningful manner.

- It submits that the precedent example provided by the Appellant proposed a larger scale of extension and staircase, disproportionate to the rear elevation.
- Overlooking from the terrace is mitigated by a line-of-sight angle while condition no. 4 will also require additional screening further reducing overlooking opportunities.
- The fenestration and proposed external materials and finishes are deliberately chosen to be identifiably modern and different to the original structure in line with recommended best practices.
- The Architectural Heritage Impact Assessment is not deficient and fully aligns with all requirements identified in relevant guidance and regulations. The response submits that the mews terrace is a modern structure and therefore an assessment of same is not required. In any case, the Planning Authority had regard to this and the Appellants observation when making their assessment. A request is made to the Board to dismiss these alleged irrelevant comments.

6.3. Planning Authority Response

- Dublin City Council request that An Bord Pleanála uphold the decision made and in the event planning permission is granted that a Section 48 financial contribution is attached.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report(s) of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of the Development
- Impact to Protected Structure
- Visual Impact
- Overlooking
- Construction Access

7.2. Principle of the Development

7.2.1. The site is zoned Z2 for Residential Neighbourhoods (Conservation Area) where the objective is *to protect and/or improve the amenities of residential conservation areas*. It is also already in residential use, which would not change as a result of the proposed works. In this regard, I consider the principle of development is established as the works are proposed to improve the amenities of the structure. A detailed assessment on the impact to the amenity of adjoining residential properties is set out later in this report however its summary is that I do not consider overlooking is likely to occur to any significant degree. Therefore, in conclusion, I consider the principle of development to be met.

7.2.2. Regarding the proposed terrace, the text of Section of 1.4 of Appendix 18 of the City Development Plan is set out previously in this report but repeated below for ease of reference as the wording is important, in my opinion, to assessing the principle of this aspect of the proposed development. It states:

There will be a general presumption against the development of rear balconies and roof terraces. However, in inner urban areas, where there are limited opportunities for ground floor amenity provision, innovative design solutions for private amenity space will be considered on a case-by-case basis where it can be demonstrated that provision of same would not have a significant adverse impact on the residential amenities of adjacent properties.

7.2.3. The Applicant responded to this item by highlighting the text regarding ‘innovative design’ and ‘consideration of a case-by-case basis’ where there would be no impact to residential amenity. This exception however is clearly only permitted in cases *where there are limited opportunities for ground floor amenity provision* which is not the case for the subject site which has the benefit of a large area of south facing private open space to the rear of the dwelling. A calculation of the available space is not provided in the application documents however I estimate it to be over 250m² which is extremely generous for a 4-bed dwelling.

7.2.4. In this regard I do not consider that there are *limited opportunities for ground floor amenity provision* and do not consider that the exception applies. I recommend that the terrace is omitted by way of condition and consider this would not meaningfully reduce the amenity level of the new dining room as it is proposed to provide large

windows with Juliet style balconies across much of the rear elevation of that room providing a similar outdoor connection.

- 7.2.5. I have had regard however to the Applicant's argument that there was originally an external staircase connecting the first floor to the garden as evident on historic maps and I therefore accept the justification to provide another. I recommend that the condition omitting the terrace is worded to require revised drawings accommodating the stairs.

7.3. Impact to Protected Structure

- 7.3.1. The appellant considers the scale and design of the works would negatively impact the character of the protected structure however the Applicant considers the works to be a positive intervention. I note the Z2 zoning objective is to *protect historical structures from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.*
- 7.3.2. There is an existing two-storey lean-to extension situated on the rear elevation of the dwelling. It provides 12.155m² on the ground floor and 15.087m² on the first floor (note there is a slight overhang at first floor level above the ground floor on the rear elevation). It is proposed to demolish and rebuild this but with an additional depth of 2.7m floorspace giving a total floorspace in the ground floor extension of 23.436m² and 23.57m² at first floor.
- 7.3.3. The lean to roof currently in place has a number of rooflights at different levels through the roof and ties into the rear façade immediately underneath a second-floor window. The new extension would have a flat roof with have a slightly lower height leaving a larger separation between it and the second-floor window cill.
- 7.3.4. The extension would not extend beyond the side building line of the dwelling, but the additional new depth would take it beyond the rear building line by the aforementioned 2.7m which is not excessive in my opinion. There is a precedent set in the adjacent dwellings to the east with flat roof two-storey extensions protruding beyond the rear building line which do not, in my opinion, detract from the architectural character of the historic structures. In many cases they are larger and extend further into the rear open space than the proposed works and do not, in my opinion, detract from the character of those protected structures or negatively detract

from the setting of the protected structures. In this regard, I do not consider the scale of the proposed extension to be inappropriate. Its new depth would likely be perceptible from properties to the side only however the height is very similar and in fact lower than the current extension. It would not dominate the rear façade and would, in my opinion, result in an appropriately scaled extension in terms of massing and layout.

- 7.3.5. The extension would be finished with cream coloured brick and 3no. large windows on each floor. Railings would be installed on the first floor to provide Juliet style balconies. The openings themselves would be a very similar scale to those already in place on the rear elevation however crittal style glazing is proposed which, together with the brick, would give a clearly different style of finish to the extension. The new works would be identifiably new and distinct from the historic structure, however I consider that the materials chosen would blend well with the existing rear façade and would not detract from its character. I do not consider the new works to be incongruous with the protected structure.
- 7.3.6. Internal alterations are proposed including relocating the kitchen to the first floor, installing a new bathroom on the second floor and relocating an ensuite on the second floor. I have had regard to the detailed further information request and response received as well as the Conservation Officer's report which in my opinion adequately address all heritage conservation concerns and in this regard I have no objection to the revised layout.
- 7.3.7. I note a condition recommended in the Conservation Officers report required details to be agreed regarding construction methodologies and ventilation strategies etc. This condition was not however attached to the notification grant of permission. In light of the works and interventions proposed to the built fabric of the historic structure including opening new doorways, introducing new water-based uses such as bathrooms into rooms not designed for such and the construction methodology-based justification to relocate rooms as put forward by the Applicant in the further information response, I consider it appropriate to include the condition.
- 7.3.8. Permission is sought to demolish an existing domestic shed situated close to the rear elevation of the dwelling and to construct another to the rear of the site, adjacent to the party wall with the Appellants property. I consider this to be a positive

intervention which reduces impacts to the setting of the protected structure by increasing the separation distance between it and the dwelling. At 2.5m high with a flat roof and 11.251m² of floorspace, I consider the scale of the proposed shed is acceptable for domestic use and would not impact any residential amenity by reason of overshadowing. It also would not affect the setting or architectural character of the protected structure on the site or wider area.

- 7.3.9. An Architectural Heritage Impact Assessment and addendum at the further information stage is received with the application and I note the appeal response received from the Applicant states that it complies with all relevant guidelines and legislation. The Appellant submits that the assessment is incomplete as it does not reference their property situated to the south of the site. I consider it unnecessary however to refer to this property as part of such an assessment, which focuses solely on impacts to the protected structure. No works are proposed within the Appellants property and no works which may affect the character or setting of the protected structure have been omitted from the assessment.
- 7.3.10. I note Section B2.2 of the Architectural Heritage Protection Guidelines for Planning Authorities refers to the scope of such assessments and recommends that in situations where proposals are limited in scale such as the current proposal, it would be sufficient to include a brief description of the structure as a whole, to provide a context for the proposals, but to concentrate the detailed assessment on those parts of the structure which will be impacted upon. It does not require any assessment of the mews structure or impacts to it as the mews structure is not a conservation structure and nor are any works proposed within that property.
- 7.3.11. I therefore conclude that references to the mews dwellings are not required within the AHIA. I consider the AHIA to be a robust and detailed assessment which complies with Architectural Heritage Protection Guidelines for Planning Authorities and provides many photographic images as well as method statements often lacking in such assessments.
- 7.3.12. The report concludes that the works will have a positive impact on the protected structure, as the existing poor-quality extension will be removed and replaced with a more sensitively designed extension, the shed will be relocated and appropriate

repairs will occur such as replacement of the existing aluminium windows on the rear façade with timber frame sash windows.

7.3.13. I note the Conservation Officers report is largely positive towards the development and, following receipt of a detailed further information response, did not object to the proposed development.

7.3.14. In conclusion, I consider the design has demonstrated special care in dealing with development proposals and would not have a negative impact on the amenity or architectural quality of the area as required under the Z2 zoning objective. In my opinion, the design, scale, layout, massing and finishes of the extension are such that there would be no negative impact to the character or setting of the protected structure or the adjoining protected structures and in this regard I consider the proposed development would comply with Policy BHA2 of the Dublin City Development Plan 2022-2028.

7.4. Visual Impact

7.4.1. The appellant submits that the proposed works would be visually intrusive and would detract from the visual amenity of their property on the adjoining site to the south.

7.4.2. As set out above, I consider the proposed works to be acceptable and appropriate. In this regard, I also consider there would not be any negative visual impact to the residential amenity of adjoining properties, particularly if the proposed terrace is removed as I have recommended.

7.4.3. I consider the scale of the proposed works to be in keeping with the existing structure as well as adjoining properties. I do not consider the choice of materials and finishes to be incongruous with the area and in conclusion I do not consider it likely that any negative visual impact would occur as a result of the proposed development.

7.5. Overlooking

7.5.1. The Appellant considers overlooking would occur from the new extension, the terrace and the relocated bathroom all from the first floor/upper ground floor. The Appellants property is situated 23m from the rear elevation of the subject dwelling,

with a separation distance of over 32m between opposing windows above ground floor.

- 7.5.2. This separation distance far exceeds the recommended thresholds set out in the SPPR1 of the Compact Settlement Guidelines and therefore I consider it unlikely that any significant overlooking would be afforded from the Juliet style balconies proposed on the first floor of the new extension.
- 7.5.3. I have recommended that the terrace is omitted and therefore the issue of overlooking from this location is negated.
- 7.5.4. Finally, regarding overlooking from the new bathroom, I note from the site inspection that this room is currently a bedroom. No works are proposed to decrease the existing separation distance from this window and while the window itself will be replaced with a new one, the scale or size of the opening will not change. In this regard no new overlooking opportunities would be afforded, and I even submit that the use of the room as a bathroom would result in lower levels of occupation versus its use as a bedroom, and therefore the new layout would have a positive impact by reducing overlooking.
- 7.5.5. In conclusion, I do not consider that the proposed works would result in any deterioration of residential amenity to the Appellants property or any adjoining or opposing properties as a significant separation distance would remain in place to negate overlooking.

7.6. Construction Access

- 7.6.1. The Appellant raised concerns regarding potential construction stage impacts to their property due to use of a laneway to the rear of the site and adjacent the Appellants property for construction access. No construction work is proposed to the laneway or any of the associated boundaries between the lane and the Appellants property.
- 7.6.2. I note the Applicant's response highlighting the restricted nature of the access as well as commitments made to primarily utilise the pedestrian access points from Kenilworth Square for construction access.
- 7.6.3. I also note the likely short and temporary construction timeline associated with a development of the scale proposed and, together with the restrictions on access, I

consider it unlikely that any significant construction stage impacts would occur to the Appellants property at Garville Lane in the event construction access or storage of construction materials would occur along the private laneway. I therefore have no objection to the principle of utilising the laneway for construction access or storage of materials.

- 7.6.4. I do recommend however that a condition is attached in the event of a grant of planning permission requiring the preparation and submission of a Construction Management Plan to be agreed with the Planning authority prior to the commencement of development. This allows an opportunity for the Applicant to set out their proposed mitigation measures in writing, as outlined in the appeal response and the draft agreement between the two parties, and is the industry standard best practice route to balance construction impacts with residential amenity.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The site is situated 4.6km west of South Dublin Bay Special Area of Conservation and South Dublin Bay and River Tolka Estuary Special Protection Area.
- 8.3. The proposed development comprises domestic alterations to a protected structure dwelling.
- 8.4. No nature conservation concerns were raised in the planning appeal.
- 8.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- 8.6. The small scale and domestic nature of the works in a serviced urban area,
- 8.7. The distance from the nearest European site and lack of connections, and
- 8.8. Taking into account screening report/determination by Dublin City Council,
- 8.9. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

- 8.10. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that planning permission is granted, subject to conditions, for the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to the location and character of the site and the protected structure RPS 4147 thereon, and the surrounding area in an urban area together with the provisions of the Dublin City Development Plan 2022-2028 including the Z2 residential conservation area zoning of the site and Policy BHA2, as well as the Section 28 Guidelines Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities and Architectural Heritage Protection Guidelines for Planning Authorities, it is considered that, subject to compliance with the conditions set out below, the scale and nature of the development is acceptable. The development would not seriously injure the visual or residential amenity of the area. The development is, therefore, in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 16 th day of August 20-24, 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.	<p>The proposed development shall be amended as follows:</p> <p>(a) The terrace shall be omitted.</p> <p>(b) A revised staircase shall be provided to provide a connection to the private open space from the dining room.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of visual and residential amenity as well as compliance with the Dublin City Development Plan 2022-2028.</p>
3.	<p>Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interest of public safety and amenity.</p>
4.	<p>Prior to the commencement of development on [the Protected Structure] the applicant/developer shall submit for the written agreement of the planning authority confirmation that: (a) the development will be monitored by a suitably qualified architect with conservation expertise and accreditation and (b) competent site supervision, project management and crafts personnel will be engaged, suitably qualified and experienced in conservation works.</p> <p>Reason: In the interest of the protection of architectural heritage in accordance with the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities.</p>

5.	<p>The Applicant shall submit the following details for the written agreement on the planning authority prior to the commencement of development:</p> <ul style="list-style-type: none"> (a) A conservation led methodology for the cleaning and repair of stone on the rear elevation noting that the use of chemicals are abrasive techniques is not supported. On-site samples for the proposed cleaning work shall be provided. (b) The Applicant shall confirm how the section of wall above the proposed extension where the existing extension is proposed to be removed shall be finished, and shall provide a specification and methodology for the proposed works (c) The Applicant shall submit a report including full details of the proposed service runs and confirmation from a suitably qualified building services professional that the proposed drainage strategy to run waste pipes parallel with the floor joists for all bathrooms at first floor level will work adequately. Should the proposed strategy be found to be not suitable for the proposed bathroom to the front the bathroom shall be omitted. (d) The Applicant shall submit details of the proposed passive ventilation strategy for the kitchen, ensuring adequate ventilation for the increased moisture levels that would be in place. The ventilation measures shall be implemented in such a way that does not adversely impact the historical character and fabric of the existing room. Details of the proposed service runs to the room below shall also be submitted, ensuring that services are consolidated as much as possible to limit the amount of service runs required to be made through the floor. (e) An alternative non-synthetic putty shall be used externally on the new Windows to the rear a method statement for the installation of new window units that adheres to the Department of Housing, Local Government and Heritage ADVICE series Windows publication shall be provided.
----	--

	Reason: In the interest of architectural conservation.
6.	<p>The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</p> <p>Reason: In the interest of public health.</p>
7.	<p>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.</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.

Sarah O'Mahony
Planning Inspector

13th March 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	321028-24		
Proposed Development Summary	Domestic extension and alterations to existing dwelling which is a protected structure.		
Development Address	53 Kenilworth Square South, Dublin 6.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	X		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	X		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			

5. Has Schedule 7A information been submitted?		
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ Date: _____