



An
Bord
Pleanála

Inspector's Report

ABP-305188-19

Development

PROTECTED STRUCTURE:

Demolition of shed and rear boundary wall, and construction of detached mews

Location

11, Palmerston Park, Rathmines,
Dublin 6

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

2882/19

Applicant(s)

Coolcor Investments

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Evanne & David Cahill

Killian & Mary Lannin

Observer(s)

None

Date of Site Inspection

29/01/2020

Inspector

Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site is a mews site, located at the eastern end of the cul-de-sac of Palmerston Gardens, in the south Dublin suburb of Rathmines.
- 1.1.2. The site is currently part of the gardens of no. 11 Palmerston Park, with vehicular access on to the lane from a shed. The access point is not in use. Whilst not within the red-line boundary, the main dwelling on the overall site is no. 11 Palmerston Park, a three-storey protected structure.
- 1.1.3. The mews cul-de-sac is terminated by no. 5A Temple Villas, a two-storey detached dwelling facing Palmerston Road. The rear elevation of no. 5a forms the eastern boundary of the subject site. To the north of the subject site, directly across the mews laneway is 5 Temple Villas. Both of these properties have pedestrian access onto the lane. No. 5 Temple Villas also has vehicular access, at a point further west of the subject site.

2.0 Proposed Development

- 2.1.1. On the 1st May 2019, planning permission was sought for the demolition of an existing shed (22sq.m.) and rear boundary wall and the construction of a new 2.5 storey mews (224sq.m.) to the rear of the existing for storey dwelling at no. 11 Palmerstown Park.
- 2.1.2. The application was accompanied by a Conservation Report, Architectural Heritage Impact Assessment, Daylight Assessment and a Cover letter.

2.2. Planning Authority Reports

- 2.2.1. **Conservation Planner:** No review of the file.
- 2.2.2. **City Archaeologist:** Proposed development is in close proximity to the zones of Archaeological Constraint for the recorded monuments DU022-081 (Battlefield Site) and DU022-087 (Castle Site) which are listed in the RMP and subject to statutory protection. 3 no. conditions recommended if permission is granted.
- 2.2.3. **Drainage Division:** No objection subject to standard conditions.
- 2.2.4. **Road Planning Division:** Applicant should be requested to submit a swept path analysis which demonstrates the turning movements of a standard car entering and existing the proposed garage from Palmerston Gardens.

2.2.5. **Planning Report:** Notes that many mews dwellings have been built along the lane, states that there would not be any impact on the Protected Structure, therefore proposed development is acceptable in principle. Proposed mews in keeping with the pattern of development along the lane, no overlooking or over shadowing will occur. Further information required re. swept path analysis.

2.3. **Further Information**

- 2.3.1. On the 24th June 2019, the applicant was requested to provide auto-track movements drawings.
- 2.3.2. On the 26th June, 2019, the applicant submitted the requested drawings and a cover letter drawing attention to the fact that the site currently accommodates a garage.
- 2.3.3. **Road Planning Division:** No objection subject to conditions.
- 2.3.4. **Planning Report:** Proposed development is acceptable. Recommendation to grant subject to conditions.

2.4. **Prescribed Bodies**

- 2.4.1. None on file

2.5. **Third Party Observations**

- 2.5.1. Issues raised included overlooking, loss of residential amenity, structural impact, access & parking and the scale of the proposed development.

3.0 **Planning Authority Decision**

3.1. **Decision**

- 3.1.1. On the 24th July 2019 the Planning Authority issued a notification of their intention to GRANT permission subject to 11 no. standard conditions.

4.0 **Planning History**

- 4.1.1. None on file.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

- 5.1.1. The subject site is located in an area zoned Z2 with an objective *'to protect and/or improve the amenities of residential conservation areas'*. The site is located at the rear of No 11 Palmerston Park, which is listed as a Protected Structure (House) in Volume 3 of the plan. The policies in relation to Protected Structures are set out in Section 11.1.5.1.
- 5.1.2. **Appendix 24** of the development plan refers to Protected Structures and Conservation Areas. Standards for Residential Accommodation (houses) are set out in Section 16.10.2, and Mews Dwellings at 16.10.16.
- 5.1.3. **16.10.16 (Mews Standards)**
- a) Dublin City Council will actively encourage schemes which provide a unified approach to the development of residential mews lanes and where consensus between all property owners has been agreed. This unified approach framework is the preferred alternative to individual development proposals.
 - b) Stone/brick coach houses on mews laneways are of national importance. Dublin City Council recognises the increasing rarity of stone/brick coach houses and the need to retain and conserve all of the surviving examples, particularly in relation to their form, profile and building line as well as any original features remaining. Proposals to demolish such buildings will generally not be accepted.
 - c) Development will generally be confined to two-storey buildings. In certain circumstances, three-storey mews developments incorporating apartments will be acceptable, where the proposed mews building is subordinate in height and scale to the main building, where there is sufficient depth between the main building and the proposed mews building to ensure privacy, where an acceptable level of open space is provided and where the laneway is suitable for the resulting traffic conditions and where the apartment units are of sufficient size to provide for a high quality residential environment. This is in line with national policy to promote increased residential densities in proximity to the city centre.
 - d) Mews buildings may be permitted in the form of terraces, but flat blocks are not generally considered suitable in mews laneway locations.

e) New buildings should complement the character of both the mews lane and main building with regard to scale, massing, height, building depth, roof treatment and materials. The design of such proposals should represent an innovative architectural response to the site and should be informed by established building lines and plot width. Depending on the context of the location, mews buildings may be required to incorporate gable-ended pitched roofs.

f) The amalgamation or subdivision of plots on mews lanes will generally not be encouraged. The provision of rear access to the main frontage premises shall be sought where possible.

g) All parking provision in mews lanes will be in off-street garages, forecourts or courtyards. One off-street car space should be provided for each mews building, subject to conservation and access criteria.

h) New mews development should not inhibit vehicular access to car parking space at the rear for the benefit of the main frontage premises, where this space exists at present. This provision will not apply where the objective to eliminate existing unauthorised and excessive off-street car parking is being sought.

i) Potential mews laneways must have a minimum carriageway of 4.8 m in width (5.5 m where no verges or footpaths are provided). All mews lanes will be considered to be shared surfaces, and footpaths need not necessarily be provided.

j) Private open space shall be provided to the rear of the mews building and shall be landscaped so as to provide for a quality residential environment. The depth of this open space for the full width of the site will not generally be less than 7.5 m unless it is demonstrably impractical to achieve and shall not be obstructed by off-street parking. Where the 7.5 m standard is provided, the 10 sq.m of private open space per bedspace standard may be relaxed.

k) If the main house is in multiple occupancy, the amount of private open space remaining after the subdivision of the garden for a mews development shall meet both the private open space requirements for multiple dwellings and for mews development.

l) The distance between the opposing windows of mews dwellings and of the main houses shall be generally a minimum of 22 m. This requirement may be relaxed due

to site constraints. In such cases, innovative and high quality design will be required to ensure privacy and to provide an adequate setting, including amenity space, for both the main building and the mews dwelling.

5.2. EIA Screening

- 5.2.1. Having regard to nature of the development comprising a mews dwelling and the urban location of the site 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

- 6.1.1. Two third-party appeals against the decision of the Planning Authority to grant permission have been submitted to the Board.

6.2. Evanne & David Cahill, 5A Temple Villas

- 6.2.1. The grounds of the appeal can be summarised as follows:
- The appellants are concerned about the structural impact of the proposed development on their property. The application is silent on the proximity of the subject site to the rear elevation of no. 5A. Severe negative impacts could include the construction of the dwelling on their rear boundary wall with the above ground level floors sitting directly in front of the rear windows of the ground and first floors. The Planning Authority has not addressed this issue.
 - The Board is requested to condition that the proposed dwelling be set back behind the southern corner of no. 5A.
 - The appellant's rear yard is immediately east of the subject site. The proposed dwelling would have a seriously negative impact on their residential amenity.
 - The ground and the first floor of the proposed dwelling project forward of the established building line to the west of the subject site.

- The proposed dwelling will have an overbearing impact on the appellants property, being half-way across the rear elevation and reducing the north-western sunlight.
- The Applicants Daylight Assessment dismisses this impact, classifying it as marginal. The proposed development will have a detrimental impact, creating a three-storey building on the appellants boundary. This represents a sub-standard form of development. The Planning Authority's findings that this impact is acceptable is rejected. The appellants rear yard is an important amenity space.
- The proposed mews should be set back 5m into the rear garden of no. 11 Palmerston Road.
- The laneway does not provide a turning-area. The laneway is insufficiently wide to accommodate pedestrian and vehicular traffic safely. It does not meet the development plan minimum of 5.5m. The proposed development will create difficult turning movements. Additional parking will create a traffic hazard. This will create a conflict with the applicants pedestrian access.
- Recently constructed dwellings have been set back from the laneway to allow for safe access.
- The proposed three storey mews does not respect the context of the existing dwellings. The high dormer roof projecting across the appellants property shows a lack of consideration. The proposed dwelling will be visually obtrusive.
- The proposed development does not comply with development plan policy and is contrary to the proper planning and sustainable development of the area.
- The proposed development will create maximum disruption to no. 11 Palmerston Road. The subject site is constrained and will compromise the open space of the main dwelling.
- The Board is requested to refuse permission.

6.3. Killian & Mary Lannin, 5 Temple Villas

- The proposed development will create an undesirable precedent for ad-hoc mews houses on the laneway.
- The absence of a proper plan to protect residential amenity, establish building lines and vehicle turning areas, unplanned development would seriously injure the residential amenity of the area.
- The development plan encourages a unified approach to mews development.
- The development plan requires that new mews respect the character, scale, massing, height, building depth, roof treatment and materials of the area and that the proposed design should be an innovative architectural response that is informed by building lines and plot width. The proposed development is at variance with this objective.
- The appellants kitchen extension, side elevation and garden area immediately north of the subject site. The proximity of the proposed development would have a negative impact on the appellants residential amenity.
- The proposed development is forward of the building line of the existing mews to the west. This is unacceptable in urban design terms.
- The proposed first-floor windows will overlook no. 5 causing a loss of light and will be visually obtrusive. The form and scale of the proposed three-storey dwelling, compared to the surrounding properties will seriously injure residential amenity.
- The laneway does not provide a turning-area. The laneway is insufficiently wide to accommodate pedestrian and vehicular traffic safely. It does not meet the development plan minimum of 5.5m. The proposed development will create difficult turning movements. Additional parking will create a traffic hazard. This will create a conflict with the applicants pedestrian access.
- There is no footpath on the laneway. The appellants are seriously concerned about pedestrian access and safety. The ability of a vehicle to safely enter and exit the subject site is questioned.
- The intensification of the site will create additional car movements and create a traffic conflict.

- The bulk, scale and height of the proposed three storey dwelling does not respect its context, or the protected structure status of the main dwelling. The high dormer roof projecting forward of the building line shows a lack of consideration. The proposed dwelling will be visually obtrusive.
- The proposed design is not of sufficiently high quality and is in keeping with the main dwelling or the pattern of development along the lane. It appears cramped on the site and represents disorderly development.
- The Board is requested to refuse permission.

6.4. Applicant Response

6.4.1. An agent for the applicant responded to the two third-party appeals as follows:

- Most of the mews sites on Palmerston Gardens have been developed.
- The language school mews building to the west of the subject site is set back from the lane by 8.5m.
- One of the appellants properties (5A Temple Villas) is an infill development that appears to have taken control of part of the laneway. It contains two windows at first floor that look into the lane. The garden of the dwelling is overshadowed by planting within and outside of the site.
- The second appellants property (5 Temple Villas) is located to the north of no. 5a. The property has vehicular access to the laneway.
- The residential conservation zoning of the laneway is to protect amenity and the architectural quality of the area, not to restrict mews development. The proposed development will be in line with the rear boundary wall along Palmerston Gardens and finished in stone to reflect the historical boundaries.
- The structural impact of 5A Temple Villas is a matter for construction. The ground floor footprint is set back from the appellants property to avoid potential impacts. The appellants have provided no evidence for their claims of structural impacts. The applicant is willing to abide by a condition requiring a detailed structural construction methodology to be prepared, to include the appellants property.
- The proposed mews dwelling will be set back 2m from the eastern boundary with the appellants above ground level. The application has demonstrated that the

additional overshadowing from the proposed development will be acceptable. The analysis is robust and not open to question.

- The suggestion of a 5m set-back is not accepted.
- The applicant has demonstrated that a car can safely enter and exit the subject site. There will be no impact on the appellants property. There is no basis for the applicants claim that there will be a conflict between vehicles and pedestrians.
- The subject laneway is a cul-de-sac, exceeds the minimum allowable for mews laneways and has operated successfully as a shared surface for over 30 years.
- The quality of the proposed design is of the highest standard. The proposed mews will appear as two-storey with the ground floor set 0.75m below ground level. The proposed mews reflects the height of the appellants dwelling. There will be no overbearing impact.
- The proposed dwelling does not have a dormer, only rooflights. The first and roof level are set back to avoid impact on the appellants property. The daylight analysis demonstrates that there will not be an impact on residential amenity.
- There is no basis for the claim that the proposed development will set an undesirable precedent. The lane has been developed with mews properties in line with the development plan policy.
- The proposed development respects the building line and the development plan policy. The positioning of the proposed mews on the laneway allows maximum separation distance from the protected structures on Palmerstown Road.
- The integration of the proposed mews with the surrounding properties is demonstrated in the photomontages. The position of the proposed mews will not impact any of the surrounding properties.
- The proposed mews will not overlook the appellants property at 5 Temple Villas. The first-floor windows have been positioned to overlooking. The above ground floor element is 12m from the appellants rear extension. The daylight analysis shows that there will not be any overshadowing of the appellants garden at the key equinoxes.

- A revised shadow analysis with the trees removed has been submitted with the response.
- The appellant's photo does not reflect the relationship of the existing and the proposed dwelling.
- The design approach taken by the proposed mews is the correct response to the laneway.
- 5 Temple Villas have a double garage accessing the laneway. The proposed mews access should be judged as the same.
- There are no basis to the claims that that the proposed development will conflict with pedestrians or cause additional parking. There are double yellow lines along the length of the laneway.
- The Board is requested to grant permission.

6.5. **Planning Authority Response**

6.5.1. None on file.

7.0 **Assessment**

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development including the various submissions from the applicant, the appellants and the planning authority. I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Impact on Residential Amenity
- Visual Impact
- Traffic
- Other

7.2. Principle of Development

- 7.2.1. The subject site is located in an area zoned for residential development, on a laneway that has a number of mews developments. Subject to compliance with all other planning considerations, the proposed development is acceptable in principle.
- 7.2.2. The principle of mews development along the lane has been well established and must be expected on this vacant site. All of the other mews sites on the lane have been developed.

7.3. Impact on Residential Amenity

- 7.3.1. I am satisfied that the proposed development will not overlook or overshadow the adjoining dwellings at no. 5 and 5A. There are no windows proposed on the eastern elevation facing the rear yard of no. 5A. On the northern elevation at first floor two long narrow windows are proposed, illuminating the stair-well and the living room. The profile of the windows and the separation distance of 7m from the rear garden of no. 5 Temple Villas is such that no overlooking will occur. A corner window is proposed at the north-western corner of the first floor. I am satisfied that the proposed 7m separation distance is sufficient to protect the residential amenity of the rear private open space of no. 5.
- 7.3.2. The shadow analysis submitted with the application demonstrated that no overshadowing would occur from the proposed mews. I am satisfied that no overshadowing of the appellants property and garden will occur.

7.4. Visual Impact

- 7.4.1. The pattern of development along this mews laneway displays no uniformity of building line, height or architectural design. Mews development immediately west of the subject site is set-back from the laneway, with on-site car parking, as far as the junction. From that point westwards, the mews dwellings have been developed up to the street-edge. The subject site forms the last site, at the end of the cul-de-sac. It is considered that the set-back building line of the three mews sites to the west of the subject site are anomalous rather than characteristic of the laneway. The terminal point of the cul-de-sac is the rear elevation of no. 5A. The building line of the proposed mews will replicate the building form already established by the rear elevation of no. 5A. I am satisfied that the proposed development will not create or set an undesirable precedent.

7.4.2. The proposed dwelling has an overall height of 9m, matching the roof line of the adjoining language school. That the proposed dwelling is set forward of the language school and that accommodation is proposed at roof level results in the scale and mass of the proposed mews being greater than its western most neighbours when viewed from the laneway. The use of a pitched roof and the set back at the upper levels will reduce the visual impact of the proposed dwelling however.

7.5. **Traffic**

7.5.1. The Board will note that the subject site accommodates a vehicular access – albeit unused. The laneway was designed to provide vehicular access to the rear of the site. The applicant has demonstrated that the subject site can accommodate safe entry and exit of a standard sized car. The laneway appears to primarily accommodate vehicular traffic. The use of the laneway by pedestrians is likely very low-level. The narrowness of the laneway will force vehicular traffic to slow to such an extent that conflict between pedestrian and vehicular traffic is unlikely to be significant.

7.5.2. The existing laneway is 5m in width, with no footpath or verges and therefore complies with section 16.10.16(i) of the development plan.

7.5.3. I am satisfied that no traffic conflict will arise from the proposed development.

7.6. **Other**

7.6.1. The proposed development does not abut the dwelling at no. 5A at ground or above ground levels. The structural integrity of no. 5A will not be affected by the proposed dwelling.

8.0 **Appropriate Assessment**

8.1.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area and proximity to the nearest European site, no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site

9.0 Recommendation

9.1. I recommend permission be GRANTED subject to the following reasons and considerations:

10.0 Reasons and Considerations

10.1.1. Having regard to the pattern of development in the vicinity and the nature, scale and design of the proposed mews house, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential amenities of neighbouring property, or of future occupants of the new house, would not unduly detract from the setting of neighbouring protected structures, would represent an appropriate form of mews development that would be compatible with its surroundings, and would be acceptable in terms of pedestrian and vehicular safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

11.0 Conditions

1.	<p>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 submitted on the 27th day of June 2019 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>Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwelling without a prior grant of planning permission.</p> <p>Reason: In order to ensure that a reasonable amount of private open</p>

	space is provided for the benefit of the occupants of the proposed dwelling and to protect the residential amenities of adjoining properties.
3.	<p>Details of the external finishes of the proposed dwelling 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>Water supply and 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> <p>Reason: To ensure adequate servicing of the development, and to prevent pollution.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall: -</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,</p> <p>(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works, and</p> <p>(c) provide satisfactory arrangements for recording and removal of any</p>

	<p>archaeological material which may be considered appropriate to remove.</p> <p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation of any remains which may exist within the site.</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>

Gillian Kane
Senior Planning Inspector

31 January 2020