



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306788-20

---

<b>Development</b>	Change of use from studio / play space to private dwelling house.
<b>Location</b>	Rear of No. 6 Rathgar Avenue, Dublin 6.
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	4599/19
<b>Applicant(s)</b>	Andy Burdon
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Andy Burdon
<b>Observer(s)</b>	Rathgar Residents Association
<b>Date of Site Inspection</b>	15 <sup>th</sup> June 2020
<b>Inspector</b>	Colin McBride

## 1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.01 hectares, is located in the rear garden of no. 6 Rathgar Avenue located to the south west of Rathmines and a short distance to the west of Rathgar Village. The appeal site is part of the curtilage of no. 6 Rathgar Avenue, which is a two-storey terraced dwelling. The appeal site is part of the rear garden and is occupied by a two-storey studio/play space and part of the rear garden of the existing dwelling. There is an existing laneway running to the rear of no.s 3-8 Rathgar Avenue with the western elevation of the existing structure facing onto the laneway. The laneway is accessed off Harrison Row to the south of the site. Adjoining sites include no. 7 Rathgar Avenue to the north and no. 8 Rathgar Avenue to the south. To the south of the site is a single-storey residential unit fronting onto the laneway and located to the rear of no. 8 Rathgar Avenue.

## 2.0 Proposed Development

2.1. Permission is sought for the change of use of the existing structure to the rear of no. 6 Rathgar Avenue, with direct access to the rear lane (off Harrison Row), from studio/play space to private dwelling house accessed from that laneway. Proposed works to include raising part of the roof profile, modifications to elevations including retention and re-use of existing cladding, window and doors, raising the level and extent of a mezzanine to form a first floor habitable space, formation of a new garden wall bisecting the existing shared garden as private open space. The floor area of the residential unit is 63sqm and it features two bedrooms.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission refused based on one reason...

1. The proposed development does not comply with the Dublin City Development Plan 2016-2022, section 16.10.16 'Mews Dwellings', in terms of width of the existing laneway. The site is adjacent to an area of uncontrolled parking and is not considered to be in an area well served by high frequency public transport and is

therefore not considered to be an appropriate location for zero residential parking. The proposed development would set an undesirable precedent for this area and would have a negative impact on residential amenity and endanger public safety by reason of traffic hazard. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

Planning Report (04/02/20): The design and scale of the proposal was considered acceptable. The proposal was considered inappropriate due to the lack of parking and its location in an area without a sufficient level of public transport to consider such a situation appropriate. Refusal was recommended based on the reason outlined above.

#### **3.2.2. Other Technical Reports**

Drainage Division (02/01/20): No objection.

Transportation Planning (23/01/20): refusal on the basis of lack of parking and its location adjacent an area of uncontrolled parking, the lack of public transport to justify lack of parking and traffic hazard.

### **3.3. Prescribed Bodies**

None.

### **3.4. Third Party Observations**

3.4.1 None.

## **4.0 Planning History**

1534/04: Permission granted for the provision of a home based economic activity Workshop/Studio, playroom and toilet at existing garage to the rear of an existing dwelling.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant Development Plan is the Dublin City Development Plan 2016-2022. The appeal site is zoned Z2 with a stated objective 'to protect and/or improve the amenities of residential conservation areas'.

#### Section 16.10.16 Mew Dwellings

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 spaces 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 7.5m 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. Natural Heritage Designations**

5.2.1 None in the vicinity.

## **5.3. EIA Screening**

5.3.1 Having regard to the nature and scale the development which consists of change of use of a studio/play space to a dwelling, 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. A first party appeal has been lodged by Fine Balance Architecture on behalf of the applicant, Andy Burdon, 6 Rathgar Avenue, Dublin D06YH42.

- The appellant provides a number of examples of projects similar in nature permitted to demonstrate their case that the proposal is an appropriate standard of development.
- The appellant notes that the only reason for refusal relates to the issue often width of the laneway and lack of parking and that the Planning Assessment of the proposal was generally positive apart from the one reason for refusal.
- The appellant outlines all public transport links in the area noting that the appeal site is in close proximity to a number of bus routes and 22 minutes walk from the nearest Luas Stop (Cowper Road). It is also noting there is car sharing facilities and a bike scheme in close proximity and the site is a 3.8km walk to Grafton Street (50 minutes).
- It is noted that the design and scale is acceptable; in the context of adjoining amenities with no adverse impact through overshadowing or overlooking.

- Provision private open space is 32.5sqm with a garden depth of 5m.
- The proposal would be consistent with Development Plan objectives regarding sustainable residential development, urban infill and density and objectives QH7 and QH8 and policy regarding Mews Dwellings.

## 6.2. Planning Authority Response

6.2.1 No response.

## 6.3. Observations

6.3.1 An observation has been submitted by the Rathgar Residents Association.

- The proposal should be refused as it fails to meet standards set down under the City Development Plan for back lane mews developments including private amenity space, overlooking and car parking provision/accessibility. There is a lack accessibility for emergency vehicles.

## 7.0 Assessment

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Design, scale, visual impact, adjoining amenities

Car parking/traffic

Appropriate Assessment

7.2. Design, scale, visual impact, adjoining amenities:

7.2.1 The proposal entails change of use of an existing two-storey studio/play space structure to a two-bed residential unit. The overall design and external appearance of the existing structure to be retained with the ridge height of the structure raised by

0.814m to facilitate increased head height at first floor level. The alterations mean the provision of larger windows (3 no. windows) at first floor level on the eastern elevation and a raising of the cill height of the three no. windows on the western elevation.

7.2.2 The increase in ridge height of the existing structure is modest in scale and would be acceptable in the context of both the visual and adjoining amenities with no significant alteration to the existing form of the structure. In regards to orientation and privacy, the first floor windows in the western elevation have a higher cill height with part of the panels featuring obscured glazing so such do not facilitate overlooking. The windows at first floor level on the eastern elevation are also high level windows and facilitates the provision of light and do not allow overlooking of adjoining properties. I would consider that the overall visual impact of the proposal at this location to be negligible with a marginal increase in ridge height and the existing structure located to the rear of existing properties of much larger scale and height. The overall scale and orientation of windows has adequate regard to the amenities of adjoining properties with the no significant or adverse impact through overshadowing or overlooking.

7.2.3 The proposal provides for a two-bed unit with 33.5m of private open space provided in an area 5m deep with approximately 75sqm of private open space being retained with no. 6 Rathgar Avenue. I would consider that the overall quality of the proposed unit is satisfactory and sufficient private amenity space is provided with the proposed unit and retained with the existing dwelling.

### 7.3 Car Parking/Traffic:

7.3.1 Permission was refused on the basis that the proposal does not comply with Dublin City development Plan 2016-2022, section 16.10.16 'Mews Dwellings', due to the width of the existing laneway being determined to be too narrow. It was noted that the site is adjacent to an area of uncontrolled parking and is not considered to be in

an area well served by high frequency public transport and is therefore not considered to be an appropriate location for zero residential parking.

7.3.2 This appears to be the only reason for refusal and relates to the fact that the laneway is not wide enough to facilitate car parking. The unit was deemed to be too far from public transport infrastructure to merit allowing no car parking. The site is located in Area 3 for the purposes of car parking and the maximum standard for this area is 1.5 space per residential unit. These are maximum standards and do allow for consideration of the location of the proposal and its context in terms of public transport. The existing laneway is not wide enough to facilitate vehicular traffic or on street parking and such is not option for the proposal. I would consider that the residential unit is within close enough proximity to public transport infrastructure to merit allowing it without parking provision. The unit is within 10minutes walking distance of a number of bus routes and 22min walking distance from the nearest Luas Green Line stop (Cowper Road).

7.4 Appropriate Assessment:

7.4.1 Having regard to the nature and scale of the proposal, no appropriate assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

## 9.0 Reasons and Considerations

Having regard to the design and scale of the proposed development, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the visual amenities of the area, the amenities of adjoining property and would be satisfactory in the context of traffic safety and

convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. 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.

Reason: In the interest of public health.

3. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or Public Holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

---

Colin McBride  
Planning Inspector

24<sup>th</sup> June 2020