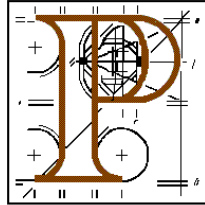


An Bord Pleanála



Inspector's Report

Appeal Ref. No:	PL29S.245723
Proposed Development:	Construction of a house in the rear garden of 69 Leinster Road, Rathmines, Dublin 6 (Protected Structure)
Location:	Grosvenor Lane, Rear of 69 Leinster Road, Rathmines, Dublin 6
Applicants:	Martin Kelly
PA Reg. Ref:	3073/15
Planning Authority:	Dublin City Council
P.A. Decision:	Grant
Appeal Type:	Third
Appellants:	Jill Twomey
Date of Site Inspection:	22nd January 2016
Inspector:	Una Crosse

1. SITE AND SURROUNDINGS

The appeal site comprises the rear of the curtilage of No. 69 Leinster Road abutting Grosvenor Lane. The site is c.7m in width and 35m-37.5m in length with the boundary of the proposed site approximately 14m from the rear gable of the return on the rear elevation of the No. 69 which is a mid-terrace two-storey over basement period dwelling currently in multiple occupancy. At the time of my visit a wooden boundary fence had been erected on the site approximately in the position of the proposed new boundary. The appeal site is currently overgrown. The rear boundary of the site comprises a 2.5m block wall with no ope onto Grosvenor Lane. The pattern of development in the area comprises large dwellings within the terrace fronting Leinster Road with a number of recently developed mews dwellings addressing Grosvenor Lane. One of the most recent has been constructed on the site to the rear of No. 68 to the east of the appeal site. The dwelling is part-2/part-3 storey and accessed from Grosvenor Lane. Construction has not yet commenced on the permitted mews on No. 70 to the west of the appeal site. To the north of the laneway the more recent terraced properties in Leinster Park are located.

2. PROPOSED DEVELOPMENT

As Submitted

The proposal involves the development of a mews house to the rear of No. 69 Leinster Road which is a protected structure. The new dwelling is proposed to be two storeys with attic accommodation with the existing rear boundary wall of the existing property modified to create an entrance to the proposal onto Grosvenor Lane. The proposal has a proposed area of 229sq.m and a ridge height of 9.5m. It is proposed to provide 65sq.m of private open space for the proposal.

Further Information

In response to a further information request the design was amended such that the ridge height was lowered to 8.5 metres.

3. PLANNING HISTORY

On Site

Reg. Ref. 1821/07: Grant - 2-storey mews dwelling with part use of roof space in rear garden, with new vehicle access onto Grosvenor Lane at rear of no.69 Leinster Road. Condition no.2 required amended design, limiting height to 9.2metres, amending attic windows, setting back laneside wall by at least 1m.

Adjacent Sites of Relevance

68 Grosvenor Lane - PL29S.239312/Reg. Ref. 2706/11: Grant - to demolish existing workshop and the construction of a 3-storey 3 bedroom mews dwelling.

70 Grosvenor Lane – Reg. Ref. 6440/07 – Permission granted for 3 no. two-storey three-bed mews dwelling to the rear of No. 70/71 Leinster Road

Other Sites in the Vicinity

73 Leinster Road/73 Grosvenor Lane - Reg. Ref. 3410/10: Grant - for the demolition of existing garage and outhouses and the erection of 2-storey detached 3-bed mews house (139sqm), with first floor terrace and parking accessed off Grosvenor Lane to the rear of no.73 Leinster Road, Rathmines (a Protected Structure), and the reversion of no. 73 from 10 'pre'63' units to a single-family home, and all associated site works.

65 Leinster Road - Reg. Ref. 5430/08: Grant - 2-storey detached mews dwelling, including off-street parking & vehicular access onto rear laneway. The design was revised from that previously refused application reg.ref.1210/08 / PL29S.228992.

PL29S.228992/Reg. Ref. 1210/08: Refuse - 2-storey mews with vehicular access onto Grosvenor Lane, at **No. 65 Leinster Road**. The Board's reason for refusal states:

"Having regard to the pattern of development in the vicinity, including the permitted house on the adjoining site, number 66 Leinster Road, and the proximity to the existing houses on Leinster Park, it is considered that, in terms of its design and layout, the proposed house would conflict with the established pattern and would seriously injure the amenity and privacy of the existing houses. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area."

PL29S.217163/Reg. Ref. 1342/06: Grant - 2-storey dwelling at rear of **No.80 Grosvenor Square** with access onto Grosvenor Lane at the rear. Amendments permitted under **Reg. Ref.1054/08**.

4. PLANNING POLICY FRAMEWORK

4.1 CITY PLANNING POLICY

Dublin City Development Plan 2011-2017

Zoning and RPS

The site is zoned Z2 the objective of which is "to protect and/or improve the amenities of residential conservation areas". No. 69 Leinster Road is on the current Record of Protected Structures – No. 4672 – House.

Policies and Objectives

Section 17.9.14 – Mews Dwellings

Section 17.10.2 – Development within the Curtilage of a Protected Structure

4.2 GUIDELINES AND REFERENCE DOCUMENTS

'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities', DoEHLG (2009).

'Urban Design Manual, A Best Practice Guide', DoEHLG (2009).

'Architectural Heritage Protection Guidelines', DoEHLG (2004).

5. PLANNING AUTHORITY DECISION

The Planning Authority decided to Grant permission for the proposed development subject to 10 conditions of which the following are considered of note:

Condition No. 3 – Written agreement of the planning authority required in respect of a new granite wall along the eastern boundary with No. 68 Grosvenor Lane raising the height of the existing wall to no more than 2100mm.

The Planners Report (original) notes: in relation to heights that in those instances where three storey mews dwelling have been permitted the ridge height above lane level has been maintained below 7.6m with the adjoining site having excavated 1.5m below ground level to reduce the impact of the three storey proposal. It is noted that the proposed mews is very similar in many respects to the building granted permission under plan 1821/07 – footprint, location, size and proposed height. The site size has been reduced by 50 sq.m however the context of the site has changed since the previous grant with a mews now developed on the adjoining site. In relation to roof space accommodation it is noted that same will only be allowed if the pitch and eaves height is in accordance with the established pattern on the laneway. The height proposed of 9.5m is stated to be considerably higher than development along the laneway. It is noted that the previous permission was granted under a previous development plan and in a different context. The private open space provision while below the standard it is considered suitable for a relaxation of the standard.

Roads and Traffic - laneway width provided of 6m is adequate. Conditions proposed.

Drainage Section – conditions proposed;

Conservation Officer

Noted that mews buildings impact on views from protected structures and where no mews exists that new build is expected to be constructed in a high quality modern idiom. It is noted that the quality of the proposed architecture while difficult to interpret from drawings appears to be considerably higher than those adjoining. Noted that a new building line is created in advance of the mews to the east. No conservation issues arise relating to the new build.

Further Information

The applicant was advised that the pitch height of 9.5m is not in accordance with the established pattern of mews development in the area and revised proposal complying with the current standards for mews development was required.

The Planners report in response to same stated that having regard to the pitch of the roof, the now 8.5m height, the limited distance for which the building will rise above adjoining and nearby mews and the set back of the proposed mews from the laneway it is considered that the proposal will not detract from the visual and conservation amenities of the area with the revised height considered acceptable.

6. GROUNDS OF APPEAL

The grounds of appeal may be summarised as follows;

- Appellants concern relates to negative impact proposal will have on 68 Grosvenor Lane where a mews has been constructed (PL29S.239312);
- Proposal is set back 8m from boundary wall fronting Grosvenor Lane disregarding existing building lines creating a new building line with same detrimentally affecting adjoining property;
- Proposal extends 7m beyond rear of existing mews on No. 68 overshadowing rear garden impacting on its residential amenity;
- Requirement for boundary wall to be raised to 2.1m would create an overbearing boundary wall of 3m in No. 68, given difference in ground levels and more appropriate to raise wall to 1.7m;
- Proposal fails to complement character of protected structure as new rear garden of protected structure will be reduced disproportionately with the scale of the protected structure necessitating a substantial rear garden ;
- Existing mews in vicinity have not reduced the rear gardens of the protected structures as significantly as traditional proportions retained;
- Retained open space for protected structure less than minimum of 15sq.m per bed space;
- Proportion of open space retained for the protected structure would make it unattractive as a single occupancy unit;
- Inappropriate to facilitate two large residential units on one plot with both failing to comply with minimum private open space despite relaxations allowed for mews;
- Proposal out of scale and proportion (size and height) both to existing house and adjoining mews;
- Roof space proposed with required height to facilitate same should not be permitted;
- Yellow brick finish not appropriate with stone and render prevalent in the area;
- Proposal fails to accord with the Z2 zoning provisions;
- Front wall of property should be set back 1.5-2m as per No. 68 for reasons of safety;
- Proposal should not overhang any part of the boundary wall;

7. RESPONSES

7.1 PLANNING AUTHORITY RESPONSE

The planning authority commented on the appeal as follows;

- The report still stands and Inspector requested to uphold Council's decision.

7.2 FURTHER SUBMISSIONS

The applicant responded to the appeal with a very lengthy response which is summarised as follows;

- Appellant's concerns appear inconsistent with the previous grant of permission on the appeal site for a similar development with the proposal

similar to that permitted under Reg. 1821/07 (comparative drawing – Appendix A of response);

- Assessment of appellant's development on No. 68 would have included the permitted development on the appeal site by way of the pattern of development in the area;
- Request that the Board decide not to consider the appeal further under s. 38(1)(b)(ii) of the PDA given the existing permission;
- Ability of the tract of land to accommodate a dwelling does not appear to be questioned with the main concern the positioning of the house on the site;
- Development permitted under previous permission had a ridge height of 9.2m with a very similar footprint;
- Appellant stated in own appeal (No. 68) that the site of mews on No. 68 was fully independent of the protected structure to the rear;
- The reason for the protection of the structure relates to its position within the streetscape with less weight placed on the rear aspect;
- Numerous precedents in the area for similar development in addition to permission previously granted on the site;
- Private open space retained for the original dwelling at 97 sq.m accords with the requirements of the Development Plan;
- Private open space proposed for the mews at 65sq.m below standard of 15sq.m but planning authority refer to relaxation facilitated by the Development Plan and complies with the relaxation provided at section 17.9.14;
- Noted that appellant previously sought relaxation of private open space standards in PL29S.239312;
- Laneway contains a range of buildings and structures dating from different ages with a range of heights and styles with no single common unifying characteristic;
- Many include garages making it difficult to see height or depth of units with the proposal differing due to absence of garage door and finish;
- Size of proposal accords with range of proposals already permitted;
- Lack of uniformity of units in the area outlined in series of photographs – height, set back, finishes;
- No requirement in the Development Plan for any new dwellings to be substantially subordinate to their host dwelling with the requirement that the new dwelling be subordinate;
- Permitted dwelling on the site was 9.2m with the revisions proposed in the current proposal reducing dwelling to 8.5m which planning authority considered appropriate given set back of proposal;
- Setback and laneway width proposed considered appropriate;
- Overshadowing of appellants rear garden would not occur during morning or afternoon given the orientation of the sites and the angle of the suns rays;
- Applicant has no objection to the reduction of the boundary wall to 1700mm as requested by the appellant;
- In relation to the possibility of overhanging, reference is made to Section 34(13) of the PDA.

7.3 SUBMISSIONS REQUESTED BY AN BORD PLEANALA

The Board requested the Development Applications Unit of the DAHG, The Heritage Council, An Taisce, An Chomhairle Ealaíon and Fáilte Ireland to comment on the proposal in respect of the potential impact on the Protected Structure (No. 69 Leinster Road). No response was received by the date specified.

8. ASSESSMENT

This assessment will consider the following;

- Principle of the Proposal
- Compliance with Development Plan Standards
- Impact Residential amenity
- Impact on Protected Structure
- Other Matters
- Appropriate Assessment

8.1 Principle of the Proposal

While the appellant states that the proposal fails to accord with the Z2 zoning objective it is not clear from the grounds of appeal how such failure exists. The Z2 objective seeks “*to protect and/or improve the amenities of residential conservation areas*”. I do not consider that the proposal, located on a site where a similar proposal was permitted and between two properties where mews dwellings have been permitted, would fail to accord with the objective. The planning history of the site clearly provides a precedent for a development of the nature proposed. The scale, design and height of the proposal has already been permitted on this site. Therefore the principle of the proposed development is, in my opinion, appropriate on the subject site.

8.2 Compliance with Development Plan Standards

8.2.1 Section 17.9.14 – Mews Dwellings

Firstly, section 17.9.14 of the City Plan sets out the standards required in respect of Mews Dwellings. There are 17 such standards, however not all are applicable. I address in turn the parts that I consider are relevant to the proposal.

8.2.1.1 Dwelling Type

Part (b) states that development will generally be confined to single-family units of two-storey height. The proposal is a two-storey unit with roofspace all within a 8.5m ridge height. Part (f) provides that accommodation will only be allowed in the roof space of a two storey mews if the pitch and eaves height of the mews dwelling is in accordance with the established pattern on the laneway. The development is largely in line in terms of its height with the surrounding development as set out in side elevations drawing submitted in response to further information (K14-421-08_Rev_A). This shows the roof height in the context of the existing roof at No. 68 and that permitted on No. 70/71. This is considered acceptable.

8.2.1.2 Design and Boundary Treatment

Part (d) states that 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. Matters relating to height and extent of the dwelling have been addressed elsewhere. The appellant is concerned about the proposed yellow brick finish. The mix of finishes in the area is noted. I do not consider that the yellow brick finish would compromise any special character but would in my opinion add some additional vibrancy to this laneway. I consider that the subject proposal meets this requirement.

Part l) states that in order to maintain the existing character or improve the residential amenity of the mews, the planning authority may require the erection of a boundary wall that reflects the height, materials and finish of existing walls and buildings. In this regard I note that the appellant is also concerned about the requirement at Condition No. 3(i) that the boundary wall be raised to 2.1m as it is considered it would create an overbearing boundary wall of 3m as it addresses No. 68, given the difference in ground levels and that it would be more appropriate to raise the wall to 1.7m. I note the applicant's response to this concern and consider that if the Board are minded to permit the proposal that the condition regarding this boundary wall be amended accordingly.

8.2.1.3 Building line/Setback

The matter of set back and building line is one of the concerns raised by the appellant. Part of the front elevation of the appellant's property is located almost flush with their boundary wall. Approximately half is set back approximately 5.2 metres from the boundary with the mews lane. Therefore a staggered building line has been created directly adjacent to the proposed development. The proposed dwelling is set back approximately 7 metres from the new boundary wall proposed to address the lane. This wall has an opening to facilitate car parking within this space. The proposed house is therefore set back 1m from the closest building line of the adjoining dwelling. Part h) of the standards refers to mews lanes that do not already have existing setbacks. Part (i) states that in mews lanes, where there is already substantial mews development subject to setback restrictions, such setbacks for new mews dwellings will continue in force to avoid a saw-tooth effect. I note that the PA seek to avoid the saw tooth effect, however I note the staggered building line of the adjoining property at No. 68 and consider that the proposal is suitable having regard to the wall proposed adjoining the laneway which creates a strong boundary along the lane.

8.2.1.4 Parking and Access

In relation to parking and access the proposal complies with the requirement at Part (j) that all parking provision in mews lanes will be in off-street garages, forecourts or courtyards with two spaces proposed in the proposed courtyard created between the front boundary wall and the front wall of the house. Part (q) requires that potential mews laneways must have a minimum carriageway of 4.8m in width (5.5m where no verges or footpaths are provided). The proposal herein sets back the boundary of the site as it addresses Grosvenor Lane (area hatched on site layout plan). This provides that the laneway will be

in excess of 6m as it addresses the subject site. As noted above, all parking is provided within the curtilage of the mews dwelling site as required.

8.2.1.4 Private open space

Firstly, the standard for private open space in this area of the City is 15sq.m per bedspace. Part (m) of the mews standards states that the depth of this open space for the full width of the site will not generally be less than 7.5m and shall not be obstructed by off-street parking. I note that the private open space for the mews is a regularly configured area with a depth of 10m therefore complying with this requirement. The private open space for the mews is 65sq.m in area. With 6 bedspaces proposed in the unit, this would require 90sq.m of space. However, part (n) states that the 15sq.m of private open space per bedspace standard may be relaxed for proposals located in the suburbs provided any existing residential buildings comply with minimum private open space standards and the proposed mews dwelling has a rear garden with a minimum length of 7.5m for its entire width. The proposed private open space for the mews has a length of 10 metres so therefore complies with this requirement for the relaxation. The Planners report notes that in respect of the main house a rear garden of over 100sq.m for 8 bedspaces is provided which is stated to be in compliance with the open space standards set. I consider that this is an adequate area of private open space for the main dwellings.

Part (o) states that 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. This is addressed above in respect of the relaxation. In relation to the appellants concerns that inadequate open space would prevent the possible future use of the main house for single occupancy, I consider this to be a subjective view. This is a prime urban location with a property of architectural merit and subject to an adequate amount of retained open space, the private open space retained would not in my opinion impact detrimentally on any future plans for single occupancy. I note that part (p) requires that the distance between the opposing windows of mews dwellings and of the main houses shall be a minimum of 22m. This has been achieved in the proposed development.

8.3.2 Section 17.10.2 – Development within the Curtilage of a Protected Structure

This section of the Plan sets out what the Planning Authority proposes to have regard to when considering applications for development within the curtilage of a protected structure as follows,

- The protected status of the structure and the need to protect its special character.
- The various elements of the structure which give the protected structure its special character and how these would be impacted on by the proposed development.
- Proximity of any new development to the main protected structure and any other buildings of heritage value.

- The design of the new development, which should relate to and complement the special character of the protected structure.

Having regard to the location of the proposal to the rear of the house and to the special character of the protected structure its facade and the relationship of same to the rest of the terrace I consider that the proposal herein complies with this section of the Plan.

8.4 Impact Residential Amenity

The appellant considers that the proposed rear building line which extends some 7m from the appellants own rear elevation would impact negatively on their residential amenity by reason of overshadowing. I note the concerns however I would note that at the time of the appellant's application for the mews on No. 69, May 2011 (PL29S.239312/Reg. Ref. 2706/11) that the previous permission on the current site was still live. The previous permission, (decision date 18 May 2007) provided for the same building line and a building height of 9.2m which is 0.7m higher than that permitted by the Planning Authority in the current case. While the existing permission on site has now lapsed, it is a relevant precedent and I consider its existence at the time of the appellant's application is of significance to the context of the proposal on site. Notwithstanding, the appellants property is east/north-east of the proposal providing that overshadowing of the appellants property would not be adverse and would not significantly impact on their residential amenity.

8.5 Impact on Protected Structure

In relation to the protected structure, I would agree with the applicant's agent that the special character of this structure relates to its position within the terrace and the character created by same. The rear curtilage provides little by means of context to same. Therefore I do not consider that the development of the mews house would compromise the special character of the structure. One of the main considerations raised by the appellant in relation to the protected structure is the matter of proportionality of the site as it relates to the protected structure and its remaining rear space. The concern is that the proposed mews site is proportionally too large and the site remaining for the protected structure is inadequate. I would suggest that permitting the development of the mews in itself materially alters and changes the context of the rear curtilage of any property including that of the appellants. In that context it is my opinion that once sufficient space is retained to provide adequate private open space for the main dwelling the proportionality of the division of the site is of little relevance. The matter of private open space is discussed separately above.

8.6 Appropriate Assessment

Having regard to the nature and scale of the proposed development, nature of the receiving environment, the likely emissions arising from the proposed development, the availability of public water and sewerage in the area, and proximity to the nearest European site, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9. CONCLUSION

Having regard to the planning history on site and to the pattern of development in the immediate vicinity of the site, I consider that the development as proposed is appropriate. I do not consider that the proposal would impact negatively on the protected structure nor do I consider that the residential amenity of the adjoining properties would be negatively impacted. In this regard I consider that permission should be granted for the development as proposed.

10. RECOMMENDATION

Having regard to the foregoing I recommend a GRANT of planning permission in accordance with the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having regard to the land use zoning objective for the site, as set out in the current Dublin City Development Plan, the pattern of existing and permitted development on the site and in the vicinity, the design of the proposed house, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity, would not detract from the architectural heritage of the area, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the drawings received by the planning authority on the 15 day of September, 2015, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Prior to commencement of development, a revised site layout plan shall be submitted for the written agreement of the Planning Authority which shows the new granite wall the eastern boundary with No. 68 Grosvenor Lane to be no more than 1700mm in height.

Reason: In the interest of residential amenity.

3. Prior to commencement of development details and a sample of the facing brickwork on the external elevations shall be submitted for the written agreement of the Planning Authority.

Reason: In the interest of residential amenity.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for

such works and services. Full details of the connection to the public sewerage system shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of public health and to ensure a proper standard of development.

5. All service cables associated with the proposed development (such as electrical, communal television, telephone and lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

6. Development described in Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001 shall not be carried out within the curtilage of the proposed house without a prior grant of planning permission.

Reason: In the interest of residential amenities.

7. Construction works shall be restricted to between 0700 hours and 1800 hours, Monday to Friday and between 0800 hours and 1400 hours on Saturdays. No works shall take place outside these hours or on Sundays or Bank or Public Holidays.

Reason: In the interest of residential amenity.

8. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Una Crosse
Senior Planning Inspector
February 2016