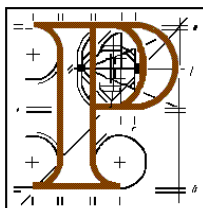


An Bord Pleanála



Inspector's Report

Development: House and associated site works (protected structure) at 73 Highfield Road, Dublin 6.

Planning Application

Planning Authority: Dublin City Council.
Planning Authority Reg. Ref. 3631/15
Applicant: Liz Duggan and Paul Duggan
Type of Application: Permission
Planning Authority Decision: Refuse

Planning Appeal

Appellant(s): Liz Duggan and Paul Duggan
Type of Appeal: First Party
Observers: Davin Bergin
Rathgar Residents Association
Gordon Ledbetter
Roderick & Mary Maguire
Colm & Eileen Breslin
Elizabeth Maguire
Michael & Louise Copra
John O'Rourke

Date of Inspection:

23rd February 2016

Inspector:

Aisling Dineen

1.0 SITE LOCATION AND DESCRIPTION

The appeal site is positioned to the south of the City Centre in the residential suburb of Rathgar. Rathgar village with its shops and associated services, busy bus route etc. is situated a short walk to the west of the appeal site along Highfield Road.

The character of the area is largely defined by its period homes of detached and terraced forms. The majority of the houses along the streetscape of Highfield Road are contained within a Residential Conservation Area, many of which are also Protected Structures.

The appeal site itself is an end-of-terrace property and contains a two storey dwelling, which is a protected structure and has an attendant landscaped garden. Parking for the existing dwelling is provided to the front of the parent dwelling on Highfield Road.

Neville Rd straddles the east boundary of the site, which comprises an attractive residential street.

2.0 THE PROPOSED DEVELOPMENT

It is proposed to construct a three storey dwelling/mews including basement of 324 sq. m. on a site area of 319 sq. m. The first party submission to the appeal reduced the first floor area by 15% and also provided other modifications. Private open space is proposed to be established by way of a basement level courtyard, a first floor rear terrace area and a ground level strip of garden adjunct to the main dwelling party boundary. Two car ports are provided on site. The boundary wall along the rear lane is to be recessed.

3.0 THE PLANNING AUTHORITY'S DECISION

On the 11th November 2015 the planning authority decided to refuse permission for the proposed development for the following reasons:

"The proposed development by reason of its bulk scale and massing would seriously detract from the visual amenities of the area and its character and setting of Protected Structures on Highfield Road and as viewed from Neville Road. Therefore, the proposed development would be contrary to the Z2 zoning objective of the site which is "to protect and/or improve the amenities of residential conservation areas"

The planners report reflects the decision of the planning authority.

4.0 DEPARTMENTAL REPORTS

The Engineering Department, Drainage Division Report

No objection subject to compliance with conditions and the Greater Dublin Area Regional Code of Practice.

The Roads and Traffic Planning Division Report

No objections subject to conditions.

Conservation Officers Report, Dublin City Council

The proposal is described as mews dwelling. The size of the proposed building would not fit into the accepted definition of mews which is normally subservient to the main building.

5.0 PLANNING HISTORY

There is no recent planning history pertaining to the appeal site. However, I note the following in respect of a near-by property in the general area of Highfield Rd.

Under **PL 29S.242152** the board granted planning permission for a mews house within the curtilage of a protected structure at No 65 Highfield Rd.

6.0 NATIONAL POLICY

Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, DoEHLG, December 2008.

These Guidelines encourage increased densities in appropriate zoned residential land within inner suburban areas of cities, proximate to existing and due to be improved public transport corridors. In relation to historic buildings it recognises that the main issues likely to arise in the context of residential development relate to the potential impacts on either the protected structures (including curtilages) or architectural conservation areas.

Architectural Heritage Protection, Guidelines for Planning Authorities, 2004

These guidelines define 'Protected Structures' as "any structure or specified part of a structure, which is included in the RPS" and under auspices of the Planning & Development Act, 2000, the meaning of structures includes "any other structure lying within the curtilage". These guidelines also outline the responsibility of Planning Authorities to preserve the character of conservation areas within their functional area and it recognises that the process of change may pose a threat to the character of the area.

It further states that "adaptation and re-use can allow the architectural heritage to yield aesthetic, environmental and economic benefits" and that "the creative challenge is to find appropriate ways to satisfy the requirements of a structure to be safe, durable and useful on the one hand, and to retain its character and special interest on the other". In addition, the Guidelines further state that in relation to conservation areas that "the protection of architectural

heritage is best achieved by controlling and guiding change on a wider scale than the individual structure, in order to retain the overall architectural or historic character of an area”.

Urban Design Manual – A Best Practice Guide, A Companion Document to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DoEHLG, December, 2008

This companion design manual add emphasis to previous DoEHLG guidelines and provisions that stride to achieve decent levels of amenity, privacy, security and energy efficiency from new homes and states that “privacy and amenity are extremely basic human needs. Such matters are particularly important in higher density schemes where good space standards, sound insulation and access to private open space can make the difference between acceptable urban living and a poor living environment”. In relation to useable private outdoor space it indicates that all homes should have access to an area of outside space where the residents can comfortably sit without being directly overlooked, that the area should be adequate size proportionate to the size of the home and ideally these spaces should be located immediately adjacent to the main living area of the home so that they can function as outside living rooms.

7.0 LOCAL POLICY

The appeal site is governed by the policies and provisions contained in the Dublin City Development Plan, 2011-2017. The indicative land use zoning objective for the site under the City Development Plan is ‘Z2’: “*to protect and/or improve the amenities of residential conservation areas*”. No. 73 Highfield Road is also designated Protected Structure in the RPS. Section 7.2.5.1 of the plan sets out the Councils policy in relation to promoting sustainable development in conservation areas; recognises the positive contribution older buildings contribute to their surroundings, in particular the contribution Protected Structures make to their streetscape setting and the sense of place within an urban landscape. In this regard the said plan contains a number of policies which seek to protect and conserve the city’s built heritage, to sustain its unique significance, fabric and character, as well as to ensure its survival for future generations. In addition, Section 7.2.5.2 of the plan indicates that the purpose of such designation is to protect, to manage and to control future changes to these structures so that they retain their significance and historic character.

Policy FC26 of the plan states that it is a policy of the Council: “*to protect and conserve the city’s cultural and built heritage; sustaining its unique significance, fabric and character to ensure its survival for future generations*” and Policy **FC30** states that it is the policy of the Council: “*to protect these structures, their curtilage and the setting from any works that would cause loss or damage to their special character*”. The plan also indicates that it is a requirement that applications for works to a protected structure are accompanied by a conservation report.

In relation to Conservation Areas Section 7.2.5.3 of the City Development Plan states that these areas: *“have been designated in the city in recognition of their unique architectural character and important contribution to the heritage of the city. Designated conservation areas include extensive groupings of buildings or streetscapes and associated open spaces”*; and, that *“all of these areas require special care in terms of development proposals which affect structures in such areas, both protected and non-protected. The special value of conservation areas lies in the architectural design and scale of these areas and is of sufficient importance to require special care in dealing with development proposals”*. It goes on to state that the Council will therefore seek to ensure that development proposals within all conservation areas complement the character of the area, including the setting of protected structures, and comply with development control standards.

Section 17.9.14 of the said plan indicates that the City Council will actively encourage comprehensive schemes which provide a unified approach to the development of residential mews lanes and this approach is preferred over individual development proposals. This section of the said plan also sets out the standards that will be applied to mews dwellings.

8.0 GROUNDS OF APPEAL

- Preplanning discussions were positive however a lack of continuity of planning personnel and a negative decision left the applicants shocked at the decision.
- The planning authority has already accepted this type of scheme with the approval of mews houses to the rear of Nos 63 and 65 Highfield Rd.
- The single reason for refusal did not say that the proposed development would materially or adversely affect the character of any protected structure.
- It is considered that the proposed development by reason of its design resulted in an appropriate form of development and by design and materials blended into its setting between the rear of Highfield Rd., and its protected structures and the Residential Conservation Area of Neville Rd.
- If the Board is not minded to agree it is requested to consider the altered design set out in the appeal.
- The proposed amendments provide for the following, in brief:
 - Omission of study at first floor
 - Reduction of overall height by 0.65 from 7.1 to 6.5 metres
 - Reduction of height of build along Neville rd by 0.65m.
 - The wall next to the rear garden of No 72 is reduced by 1.45m.
 - Reduction in length & area of first floor terrace by 1.2 m and 20 sq.m. respectively.

- The entire house will be clad in brick Additional wing wall added to lane of western boundary of No 72.
- The planning authority has already accepted the principle of mews houses with regard to 63 and 65 Highfield Rd.
- The proposal is a contemporary form which seeks to sit within the existing garden with the substantial retention of existing walls within the scheme.
- More than one third of the house is below ground.
- The remaining middle third is screened by the existing brick walls.
- 3 D images are submitted showing the modifications and it is suggested that the omission of the study at first floor level may provide a significant impact improvement given the gap of 12.8 metres between the upper gables to No 1 Neville Rd.
- The proposed house is 67% the size of the main house therefore it is subservient to the main house.
- It is submitted that the proposed mews is subservient to the main dwelling and 20 metres separation distance has been achieved between first floor windows of main house and proposed mews.
- Private Open Space is in excess of plan standards for both houses.
- The amended design is 196 sq. m. over basement which is not considered to be substantial.
- On the western side of the site, revised proposals have reduced the bulk, height and length of the wall facing the boundary and the original windows at high level have been eliminated.
- The extent of the first floor terrace facing westwards has been reduced to less than 2 metres wide and is situated 5.4 metres away from the western boundary. There is no overlooking with an obscure glass screen situated on the western side of the terrace.
- It is accepted that the building line is important on Neville Rd., however it is not uncommon for building lines to break at a natural end of a street. It is acceptable from an urban design perspective that long runs of buildings can be terminated with taller or projecting forms.
- Examples are cited under the application of where permissions have been granted for mews developments that break the “building line” in a similar context.
- The Board is asked to consider the precedent at Villiers Road and Vernon Grove where the circumstances and setting are similar to the subject site. It is submitted that a clear precedent has been set for a 2 storey house, situated in an ACA and placed within the curtilage of a Protected Structure. The bulk scale mass and setting is similar.
- Attention is also drawn to an extension of a house on Highfield Rd.
- Open space requirements are fully met and the quality of this space is excellent as it is situated primarily on the southern elevation and is located at 3 levels.
- The area of the site is 319 sq. m. and the floor area is 324 sq. m. representing a plot ratio of 1.01. The site coverage based on a ground floor area is $101/319 = 34\%$. Both of these ratios meet development plan standards of plot ratio of 0.5 to 2.0 and site coverage of 45%.

- It is considered that the original proposal is respectful of its setting and is an appropriate form of development however the revised proposal may mitigate any perceived issues regarding scale, mass or bulk. It is submitted that the proposal will not injure the amenities of the area or of property in the vicinity.

9.0 LOCAL AUTHORITY'S RESPONSE TO APPEAL

No response submitted.

10.0 OBSERVATIONS

Davin Bergin

- Two previous applications made in 1991 and 1992 were refused on grounds that they would infringe the existing building line, detract from visual amenity and overlook properties on Neville Road. While it is acknowledged that planning policy has changed it is submitted that the proposal is larger than its predecessors and would impose detrimental consequences.
- At the rear of the observers property there is a single storey pitch roof which is used as a den for children. The window on the east of this structure will be partially blocked by the west elevation of the proposed dwelling which will block natural daylight. Additionally the set-back will expose this window making it a target for vandals and a security risk.
- Concerns are expressed regarding widening of the laneway, which provides rear garden access but is not wide enough for vehicular access. Additionally removing the existing red brick wall will have a detrimental impact on the street pattern, which dates back to the early 20th century.
- The site is within a conservation area. Section 17.10.8.1 is referred to and it is submitted that the proposal, by reason of its design scale and size will bring to an end the back garden privacy currently enjoyed by the applicant. Windows on the south and west look directly over this back garden, patio area, kitchen, family rooms and rear bedrooms.
- The house at number 73 is a protected structure. Section 17.10.02 is referred to it is submitted that its siting does not take account of the Conservation Area or of properties in the vicinity, it brakes the building line, the proportions are different to surrounding Edwardian houses, the basement bears no resemblance to existing houses, the scale is huge, the 3 D's do not given accurate reflection of its scale, flat roof is out of character, the west and south elevation are shown in rendered finish which is out of character with the area.

Rathgar Residents Association

- The planning authority's decision must be upheld.
- Concern is raised regarding the size of the structure and it is submitted that it is not compatible to put such a development in the back garden of a protected structure.
- The proposal would destroy residential amenity and would have a serious adverse impact on the residential and visual amenity of the entire area.
- The proposal would result in overlooking of neighbouring properties given the position of the window of the main reception area and kitchen at first floor level and it would overlook all the rear gardens of all the houses on Highfield Rd.
- The front gardens of houses on Neville Rd would be overlooked.
- The proposed house style is not compatible with the character of the area being zoned Z2 – Residential Conservation Area. As houses in the area are traditional red brick Edwardian with slate roofs, the proposed style of house with balconies, terraces and flat roof would not be compatible with the architectural ethos of the area.
- It is submitted that after the floods of October 2011 Dublin City council declared that basements should not be considered as habitable space. Accordingly, it is submitted that to allow such a development would be tantamount to building on a flood plain. It is submitted that basements in the area are highly prone to flooding.
- The proposed development would dominate over the streetscape of the area.
- It is submitted that the proposed development would be at variance with objectives of the conservation zoning and would not be in keeping with objectives and zoning of the development plan.

Gordon Ledbetter

- While the observer has no objection to the construction of a modestly sized mews, it is submitted that the 3 storey design including basement area with limited private open space and intensity of development is too large for this site.
- The decision of Dublin City Council to refuse permission is agreed with.
- It is requested that An Bord Pleanála refuses the proposed development.

Roderick & Mary Maquire

- No conservation report has been submitted with this application, which is considered to be an omission as the issue relates to the urban conservation of the area and the development itself is within the curtilage of a protected structure.

- A conservation report would have addressed the significance of the protected structures policy on Highfield Rd and the pattern of development and the relevance of curtilage in this case.
- The appellant relies on precedent to support his case. However it is considered that the Board must address each case on its individual merits. It is considered that the cases put forward by the appellant do not equate with the current proposal in any meaningful way.
- The site at No 47 Villiers is two and a half times the size of the subject site and becomes part of the urban composition of Frankfurt Avenue, with a wholly different urban orientation. It is considered therefore that 4799/03 bears no relevance to the proposed development at No 73 Highfield Rd.
- In relation to development at No 21 Highfield Rd., the replacement of an existing two storey extension with a modern two storey extension in the case of Planning Register Reference No 2489/14 is not relevant in terms of planning context.
- It is submitted that the Stringer Development retains virtually the whole of its carefully wrought original character which is reflected in its protected status and Z2 conservation zoning, which ought to be designated as an ACA and therefore treated as such in planning terms.
- It is contended that the scale of the Stringer Development never envisaged or allowed for mews development and section 17.9.14 of the plan deals with mews in the proper use of the term. The current proposal is wholly disproportionate and inapplicable to the character of the site.
- The proposal in scale alone detracts from the setting and special character of the area.
- The proposed level of change cannot be compensated by intervention because the change defeats the objective to preserve the existing character and amenity, rather than to achieve some altered character.
- The reduction of the garden space must be seen as a negative impact on the protected structure.
- With respect of the design of new build being complimentary to the special character of the protected structure, it is contended that this can only be achieved by a single storey above ground structure on a reduced footprint.
- The retention of elements and relationships which constitute the existing character of the relevant Highfield Road development are not deemed to be addressed under the appellant's submission, or through a conservation report. The disproportionate reduction in garden and impact on a Norway Maple tree, which gives character to the street elevation are not addressed or resolved either under the submission.
- The revised proposals reflect improvement but do not address the observers underlying objection regarding the scale of the proposal.

Colm & Eileen Breslin

- It is requested that the decision of the planning authority be upheld.
- Preplanning indications are not binding on the authority.
- Precedents quoted are considered to be of limited relevance. Each application must be considered on its own merits including site context, zoning, trees, effect on neighbours.
- The example of Number 63 is not relevant as it is a much older house than that of No 73, which is a Stringer built house and part of a cohesive development, which has a different style and layout.
- The reference to No 65 is not relevant as it is a single storey mews development of a reduced footprint.
- The changes proposed are token changes and do not address the overwhelming scale of the development.
- It is disingenuous to suggest that the basement floor should be disregarded. While the revised application has 16 sq. m. less floor area it is still greater than the original house therefore the proposed house will become the dominant dwelling.
- With reference to No 47 Villiers road the relevance of this precedent is questioned given the site context and the fact that the site is 2.5 times the size of the appeal site.
- No 21 Highfield Rd. is not relevant as it relates to a two storey extension to the side of the original house and it pre-dates the Stringer development on the north side of the street. This site is not comparable.
- No 73 Highfield Rd forms part of a coherent development of Stringer built houses. It is currently zoned Z2 and is a protected structure. The proposed development would be contrary to the proper planning and sustainable development and would not protect the special character of the area.
- The proposal would result in the loss of a beautiful Norwegian Maple which is visually distinctive and a pleasing element on Neville Rd.
- No Conservation Report was submitted with the application/appeal. Such a report would confirm that the Stringer development on Highfield Rd. is of special interest and the coherence and character of the area is of particular visual and historical interest.

Elizabeth Maguire

- The issues raised under the previous observation above are reiterated under 11 similar paragraphs.
- The scale of the proposal would be completely out of keeping with the character of the area.

Michael & Louise Copra

- It is submitted that the proposed development at No. 73 Highfield Rd is a protected structure under the current Dublin City Development Plan. It has a rear garden of 35 metre depth to the northwest, which has an attractive red brick wall to the side facing Neville Rd. The size and scale of the proposed development will create an imbalance and negatively impact the character of the entrance to Neville Rd.
- The proposed house will be overpowering when viewed from the junction of Highfield Rd and Neville Rd. While a mews development is acceptable in principle we believe the proposed design is still too bulky and out of scale with its small site.
- The proposed development would involve the loss of an existing mature tree on Neville Rd. This could be avoided and the proposed new house could be designed to avoid the removal of this tree.
- It is noted that the first floor study has been omitted creating a larger separation distance of 12.8 metres to the gable of No 1 Neville Rd that partially obscured glazed screen to the central hall and timber screened corner window will still create direct overlooking of the front garden of No 1 Neville Rd.
- The modified scheme is still far too bulky and is not in keeping with existing dwellings on Neville Rd.
- The setting back of the brick boundary on the North elevation will create an undesirable precedent for on street parking.
- It is considered that any development on this site should set the ground rules for development along the lane. This development would create an undesirable precedent for similar scale developments along the lane therefore it is vital that the scale of development be controlled.
- The scale and bulk is not acceptable and there is significant overlooking of the garden of No 1 Neville Rd.

John O'Rourke

- The subdivision of the rear garden site into two parts fundamentally alters the plot of the existing house such that it will adversely affect the conservation values associated with this house.
- This subdivision will set a precedent and will materially affect the character of the area.
- The proposed development is for two stories over basement and is not a mews structure. It does not equate in any way with a mews. It is a large urban house of similar size to the existing house in whose garden it sits.
- The proposal does not comply with the City Councils own open space standards for detached houses.
- The first floor terraces will overlook neighbouring properties and will impact severely on their privacy.

- The proposed basement is not desirable due to impact on water dispersal locally.
- The proposal to alter the lane will have an adverse impact on the neighbourhood. The pattern of urban laneways and roads which form the area are part of a designed urban entity, which has, until now remained unaltered.
- The fenestration pattern of the proposal and layout of windows and doors is ill considered and at odds with neighbouring properties.
- While the amendments proposed are significant they do not address the core issue of overdevelopment of a mews site or overlooking or adverse impact upon neighbouring property.
- A large part of the proposed development transgress the boundaries of the original mews line and is development in the rear garden of No 73. That garden is clearly within the curtilage of No 73 and is a critical part of its character as a protected structure.
- With respect of mews development the plan states its policy under Section 17.10.8.1., and 17.9.14 where a number of characteristics are required. Also policy under Section 17.10.2 relates to development within the curtilage of a Protected Structure. The proposed development does not comply with these base objectives.
- The proposed development represents overdevelopment of the site and has an excessively negative impact on neighbouring properties in the area.

11.0 ASSESSMENT

Having inspected the site, considered the file documentation, the prevailing local and national policies, I consider that the key planning issues arising from the proposed development are:-

- Principle of the Development;
- Impact on No. 73 Highfield Road, a Protected Structure;
- Impact on Residential Conservation Area;
- Impact on Residential Amenities of adjacent properties;
- Private Open Space/Parking/Vehicular Access
- Surface Water Disposal
- Appropriate Assessment

11.1 Principle of the Development

The proposed development comprises an infill residential mews scheme within an established zoned Residential Conservation Area and within the curtilage of a protected structure. The site and its flanking properties to the east and west are affected by the 'Z2' land use zoning under which residential use is permissible provided the residential conservation area is protected and its amenities improved.

The development plan under Section 17.9.14 is favourably disposed towards mews development cognizant of national policy to promote increased residential densities in proximity to the city centre. However such development must accord with certain provisions whereby it must be subordinate in scale to the main dwelling and where sufficient space between proposed mews and main dwelling is maintained and where sufficient private open space standards are maintained. In this instance, I consider that the principle of a mews dwelling at this location is acceptable.

11.2 Impact on No. 73 Highfield Road, a Protected Structure.

The main dwelling, No. 73 Highfield Road, is a Protected Structure, and, this designation extends to include the curtilage of the structure, which includes the subject site, therefore an assessment of the impacts on the character and setting of this structure is required. There are no works proposed to the protected structure itself.

Policy with regard to development in the curtilage of a protected structure is cited under Section 17.10.2 of the Dublin City Plan and refers that; *“An insistence on quality will be the foremost consideration when assessing proposals for development within the curtilage of protected structures, with particular emphasis on siting, building lines, proportions, scale, massing, height, roof treatment and materials. This does not preclude innovative contemporary buildings which can contribute to the richness of the historical context. Materials shall be appropriate to the locality and sympathetic to the existing buildings”.*

There are a number of submissions on the file, some of which refer that while a mews development may be acceptable at this location, the issue of the overall scale and mass of the subject proposal is disputed at this location. One submission refers that the Stringer development, which the terrace of houses on Highfield Rd is described as and the main house in this instance, never envisaged a mews development of this ilk. Additionally, the contention is held under a number of submissions that the planning precedents cited under the first party appeal submission bear no relevance to the subject site with regard to site size and urban fabric factors that are site specific and set apart from the current application/appeal for various cited reasons.

I do not consider that the pattern of development with respect of the Stringer Project as established expressly precludes the establishment of mews development at this location. I note that the permission of a mews under PI 29S245857 at the opposite end of this terraced block pertained to a single storey mews which had different proportions from a mass and scale perspective. I also consider that the precedents cited have benefit only in that they denote mews developments (or extensions to protected structures) of modern or innovative design approaches have been generally accepted by the planning authority at various locations proximate to the appeal site. However I concur that the proposed development must be assessed on a site specific basis and in this instance the impact on the character and setting of

No 73 Highfield Rd. and the adjacent structure at No 72, both protected structures, is relevant.

While the separation distance between the proposed dwelling and the main dwelling is 20 metres and in this regard it is somewhat similar from a spacing perspective to the development permitted under PL 29S242152 at No 65 Highfield Rd, I note that this mews proposal as yet unconstructed was for a single storey dwelling also of a contemporary design approach, but some 3 metres less in height than that proposed under the current appeal. The overall height, scale and massing of the proposed development together with private open space implications therefore is of concern under the current appeal. As the proposal is within the rear garden of a protected structure and clearly within the curtilage of said protected structure, it is crucial that the proposal does not detract from the character and setting of this structure.

While the first party appellant has made a compelling case regarding the impact of the overall mass of the proposed development being reduced with regard to the fact that one storey is at basement level and the ground storey is partially screened by the high red brick boundary wall in addition to a reduction in size and dimensions under the appeal submission, I do not consider that the overall impact when viewed from the garden of No 72 and 73 Highfield Rd (both protected structures) to be so insignificant. In fact I consider that the proposed two storey dwelling in such proximity to the shared boundaries of No 72 and 73, with south facing first floor terrace, in conjunction with the overall block massing of the two storey proposal, would detract from the character and setting of said structures. Additionally, from the perspective of Neville Rd., I consider that the proposal would comprise a discordant feature on the streetscape, where it is an objective of the planning authority to protect the residential amenity of this area.

While I consider that this site is not unsuitable for the development of a mews dwelling, it is particularly important that the scale and massing of any proposed dwelling at this location is sensitive to the character and setting of protected structure(s) proximate to the site and to the character and amenity of the residential conservation area.

11.3 Impact on Residential Conservation Area

With regard to development in conservation areas policy 17.10.8.1 of the plan refers that it is policy to have particular regard to the effect of development on buildings and the surrounding environment, both natural and man-made and also to have particular regard to the immediate streetscape in terms of compatibility of design, scale, height, plot width, roof treatment, materials, landscaping and mix and intensity of proposed use.

While the plan refers to compatibility of design it is also emphasises quality as a foremost consideration when assessing such development proposals and this *does not preclude innovative contemporary buildings*. One of the issues raised under the appeal submissions refers to the departure from the established building line on Neville Rd. I tend to concur with the first party

appeal submission in this regard whereby it is referred that it is not uncommon for building lines to extend the length of a street and then change where there is a natural break at the end of a street. Accordingly, I consider that the principle of the projecting building line to be satisfactory given the precise location and spatial appreciation of this corner site. While submissions to the appeal raise concern over the design and lack of conformity with the established design, I am satisfied with the overall contemporary approach and palette of materials presented under the first party appeal submission but for the overall mass and scale of same. Accordingly I concur that the proposal in its current form by reason of scale mass and bulk would negatively impact on this residential conservation area and the character and fabric of the streetscape on Neville Rd.

Submissions to the appeal also consider that the proposed development comprises overdevelopment of the site and accordingly impacts on the character of the area. The drawings submitted show a total new build area of 324 sq. m on a site of 319 sq. m. This would allow for a proposed plot ratio of 1.01 and site coverage of 31%. Section 17.4 refers to the indicative plot ratio of 0.5-2.0 being the appropriate standard for outer city Z1 & Z2 sites, and Section 17.5 of the plan refers to 45% being adequate site coverage. Therefore the proposal is within range regarding plot ratio / site coverage figure for this suburban area. The local authority planners refers that site coverage is actually higher given the 2 car park spaces provided that are not included. Having considered this comment, I am satisfied that overall site coverage is yet within the required limits.

11.4 Open Space

With respect of private open space the proposed development provides a courtyard at basement level (c. 13.6 sq. m.) in addition to a first floor level terrace (20 sq. m. as modified under the appeal) in addition to a linear garden space adjacent to the southern boundary (c. 40 sq. m.). Accordingly the total private open space amounts to 73.6 sq. m.

Section 17.9.14(n) in relation to mews type development also sets out a private open space standard of 15-sq.m., however, it indicates that this 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 7.5 metres for its entire width”*.

There is concern that the rear linear open space located along the south boundary of the site may not be of sufficient ‘quality’ given its long linear pattern however I am satisfied that its width measures under 14 m. therefore given the compromise as stated above this space is sufficient.

11.5 Impact on residential amenities of adjacent properties

I note the submissions on file on behalf of property owners of No 72 Highfield Road and No 1 Neville Rd reflect concerns relating to loss of privacy by way of overlooking of said properties. The submission pertaining to No 72 Highfield Rd also raises concerns regarding the loss of sunlight to the small window on the east elevation of the structure in the rear garden which is used as a den by children.

Notwithstanding the traditional 22 metres between opposing first floor windows rule, I am somewhat concerned with respect of overlooking of private open space areas pertaining to both Nos 72 and 73 Highfield Rd, I note that under the appeal submission that the first floor terrace at the rear (south facing) of the proposed dwelling has been reduced in size and also has provided for the erection of first floor obscure glass screen to be erected on the terrace at this level. However, notwithstanding such measures, I yet have concerns about impacts on residential amenity by way of overlooking garden space at No 73 and the obliquely overlooking the garden space of No 72 especially given the stated objective to protect the residential amenities of such properties. This concern is particularly relevant given the proximity of the first floor terrace at 5.2 metres from the shared boundary with No 73.

With respect of the window on the east elevation of the 'den' at the rear of No 72 garden (proximate to the proposed dwelling) I do not consider that the grounds of loss of light to this particular window in a non-habitable and most likely intermittently used space, would warrant a refusal.

With regard to overlooking of the property at No 1 Neville Rd., I consider that the main area which may be impacted is the front garden and as this space is generally passively overlooked by the public realm its impacts are not particularly acute. The rear garden of No 1 Neville Rd., which provides private open space to this residence would not be overlooked.

11.6 Parking/Vehicular Access

There are two on-site parking spaces proposed and a report from the Roads and Traffic Planning Division of Dublin City Council on file expresses agreement with the arrangement including the set-back proposed on the rear laneway. The site layout proposes the relocation of a mature tree proximate to the vehicular access. This tree is the subject of a number of submissions as it is considered that it enhances the character of the street. I am satisfied that this tree could be appropriately and professionally relocated as indicated.

11.7 Surface/Foul Water Disposal

Concern is raised under the appeal submissions regarding the basement element of the proposed dwelling and the impacts that may arise in the event of a flood event. A drainage report is on file that details measures to be taken in the format of a flood impact assessment. It is proposed to lay new independent surface water system to collect all surface water run-off and all

paving and hard standing within the property will be self-draining porous paving. No sewerage surcharge has previously been recorded proximate to the site. The drainage division of Dublin City Council has no objection to the proposed development subject to compliance with the Greater Dublin Region Code of Practice for Drainage Works. I am generally satisfied that the proposed application details appropriate measures to address surface water issues appropriately.

11.8 Procedural Issues

The first party appellant indicates that pre-planning advice did not reflect the outcome of the planning application. With respect of pre-planning consultations I consider that notwithstanding the importance and documented benefits of pre-planning consultations, it remains that the carrying out of Section 247 consultations cannot prejudice the performance by a planning authority of any other of its functions under the Planning Act or under ancillary regulations (Guidelines for Planning Authorities June, 2007 refers). It is also important to note for the purpose of clarity that the development proposed is considered “de novo”. Accordingly, the Board considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application.

11.9 Appropriate Assessment

Having regard to the nature and scale of the proposed development, the fully serviced suburban location, the nature of the receiving environment 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.

12.0 CONCLUSION AND RECOMMENDATION

While the design of the proposed development is innovative it is considered that the overall scale and mass would impact adversely on adjoining properties and the character and setting of protected structures and would not be in character with the established pattern of development on Neville Rd. As such it would be contrary to the ‘Z2’ residential conservation zoning objective for the site and the area, and the proper planning and sustainable development of the area including the preservation and improvements of amenities of adjoining properties and the character of the area. 245024

It is therefore recommended that the proposed development be refused for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

1. It is considered that the proposed development would interfere with and seriously detract from the character and setting of the protected structures at No 72 & 73 Highfield Rd by reason of its scale and massing and would materially contravene the requirement of the Development plan under Policy FC30 in regard to Protected Structures, which aims; '*To protect these structures, their curtilage and the setting from any works that would cause loss or damage to their special character*'. Therefore the proposed development would be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development by reason of its mass would detract from the residential amenities of the adjoining properties. It would be visually dominant and out of character with the existing pattern of development in this area, would seriously injure the visual amenities of its residential conservation area streetscape setting, and would, therefore, be contrary to the "Z2" zoning objective for this site, as set out in the Dublin City Development Plan 2011-2017 and would be contrary to the proper planning and sustainable development of the area.

Aisling Dineen
Planning Inspector
7th March 2016