



An
Bord
Pleanála

Inspector's Report PL29S.247009.

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| Development | Development of adjoining sites comprising demolition of structures on site, construction of 2 no. mews dwellings and associated site works. |
| Location | 37 and 38 Mountpleasant Avenue Lower, Dublin 6. |
| Planning Authority | Dublin City Council. |
| Planning Authority Reg. Ref. | 2938/16. |
| Applicant(s) | Anthony O Hara and Gerry Keogh. |
| Type of Application | Permission. |
| Planning Authority Decision | Refuse. |
| Type of Appeal | First Party. |
| Appellant(s) | Anthony O Hara and Gerry Keogh. |
| Observer(s) | Lorelei Harris & Prof J. Wickham, A. O Riordan & E Guiney, Martin Plant Motors. |
| Date of Site Inspection | 20 th of October 2016. |

Inspector

Karen Hamilton.

1.0 Site Location and Description

- 1.1. The subject site is located to the rear of two protected structures, No 37 and 38 Mountpleasant Avenue, Lower, Rathmines, Dublin 6. There currently exists a large garage at the bottom of the garden for No 37 and outbuilding for No 38. The subject site is accessed and fronts onto Fortescue Lane. There are a number of mews type developments and commercial properties along the northern section of this lane.

2.0 Proposed Development

- 2.1. The proposed development includes the following:
- Demolition of existing double and single storey workshops/garages.
 - Construction of 2 no semi- detached 2 storey, 3-bedroom mews dwellings.
 - 2 no off street car parking.
 - Widening of existing lane way to 5m.

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse permission. The reason related to traffic congestion on the lane and impact on residential amenities.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner can be summarised as follows:

- The proposed mews developments generally meet the minimum room sizes, gardens spaces standards and separation distance from current residential units. Considering the standards and the proposed design of the dwellings there are generally acceptable.
- The main issue relates to the suitability of Fortescue Lane to accommodate additional traffic flows, adding to the current congestion.

3.2.2. **Other Technical Reports**

Roads and Traffic Planning Division – Recommended refusal.

Drainage Division – No objection subject to conditions.

Waste Management – No objection.

City Archaeologist – No objection subject to conditions.

3.3. **Prescribed Bodies**

None received.

3.4. **Third Party Observations**

Five submissions were received from adjoining land owners in relation to the negative impact from the proposed development on the traffic and parking along Fortescue Lane and impact on the residential amenities of the area.

4.0 **Planning History**

4.1. **3670/15**

Permission refused to rear of No 38 for construction of a two storey 3-bedroom dwelling with 2 no off street car parking spaces. The reason related to access.

PL29S.245225 (3195/14)

Permission granted at No 38 for the refurbishment and extension of basement apartment and 3 bed family unit on ground and first floor.

6079/07

Permission granted at No 38 for the refurbishment and rear extension of basement apartment and 3 bed family unit on ground and first floor.

3084/04

Permission refused at No 37 for the demolition of 2no semi-detached workshop/storage units and construction of 2 no two storey semi-detached mews houses and integrated parking. The reason related to access.

0182/94

Permission refused at No 38 for demolition and relocation of existing workshop and extension to first floor level. The reason related to access and zoning.

4.2. Adjoining sites

PL29S.209143

Permission refused at No 44 Mountpleasant Ave for 2 storey dwelling to the rear and access from Fortescue Lane. The reason related to access.

PL29S.246625

Permission granted for demolition of no. 46 and refurbishment of 40, 42 and 44 Rathmines Road (Protected Structures) construction of 2 buildings for student accommodation and all associated works.

PL29S.210037

Permission refused at No 40 Mountpleasant Ave for demolition of rear boundary wall and construction of a mews dwelling with integrated parking. The reason related to access.

5.0 **Policy Context**

5.1. **Architectural Heritage Guidelines for Planning Authorities, 2004.** Development guidelines for Protected Structures and Areas of Architectural Conservation.

Section 3.10.1: Criteria for assessing proposal with demolition.

5.2. **Dublin City Development Plan 2016-2022**

The site is zoned **in Z2** "To protect and/or improve the amenities of residential conservation areas".

5.2.1. The site accommodates two protected structures (No 37 and No 38 Mountpleasant Ave) and the following policies and objectives are considered to be relevant.

Policy CHC2: To ensure that the special interest of protected structures is protected.

Section 11.1.5.8: Demolition of Protected Structures and Buildings in Architectural Conservation Areas. The demolition of structures which make a

positive contribution to protection structure or conservation area will be restricted. The acceptability of demolition will be considered having regard to the impact on the character of the ACA.

11.1.5.3 Protected Structures - Policy Application. The design, form, scale, height, proportions, siting and materials of the new development should complement the special character of the protected structure. The traditional proportionate relationship in scale between buildings, returns, gardens and mews structures should be retained.

Appendix 24: Protected Structures and Buildings in Conservation Areas.

Section 16.10.16 Mews Dwelling. Stone/brick coach houses on mews laneways are of national importance and there is a requirement to retain and conserve all surviving examples, particularly in relation to their form and profile. Development is confined to single family units, two storeys in height. There is a need to provide one off street carpark and sufficient rear open space. Minimum width of 7.5m and 15 m² per bed space of rear open space required. Minimum distance of 22m from rear building.

6.0 The Appeal

6.1 Grounds of Appeal

The grounds of appeal are summarised below:

- Reference to the planning history along Fortescue Lane.
- Those national documents relating to residential development in urban areas has been quoted. The higher densities are applicable to this site.
- It is argued that the greatest amount of parking on the lane is from the commercial businesses and congestion would be overcome by parking restrictions and permits for residences. The additional traffic from the two dwellings would be negligible.
- Section 17.9.14 of the development plan requires a consensus of landowners for a consolidated scheme of mews development. This has not been

undertaken by landowners nor the Council and the potential along this lane is limited.

- The proposal includes an agreement with two adjoining landowners, with a setback for parking. Indicative sketch provided for possible mews development along the same section of the site.
- Preplanning with the Council indicated a favourable response to the proposal.

6.2. **Planning Authority Response**

The response from the planning authority requested the refusal reason to be upheld.

6.3. **Observations**

Three submissions were received from observers and these may be summarised as follows:

- There is already an over saturation of vehicles along Fortescue Lane.
- There is a history of refusal for mews dwellings.
- Distraction to the current residents and occupiers during construction.
- Pedestrian and vehicular access granted for "Blackberry Fair" will increase pressure on Fortescue Lane.
- No 37 and 38 are already subdivided and the additional density is not in keeping with the surrounding area.
- There will be additional noise levels generated from the occupation of the mews developments.
- There will be overshadowing from the proposed dwellings on the adjoining gardens leading to a negative impact on residential amenity.

7.0 **Assessment**

7.1. The main issues of the appeal can be dealt with under the following headings:

- Principle of development

- Traffic and Parking
- Layout and Design
- Built Heritage
- Residential Amenity
- Other Matters
- Appropriate Assessment

Principle of Development

- 7.2. The proposed development includes the demolition of an outbuilding and two garages and construction of two semi-detached dwellings. The site is zoned for residential development in the current development plan and therefore subject to complying with other planning requirements as addressed in the following sections, the principle of the proposal is acceptable.

Traffic and Parking

- 7.3. Fortescue Lane is a narrow lane to the rear of dwellings along Mount Pleasant Avenue Lower and Rathmines Road. The laneway contains a mixture of mews dwellings, commercial premises and garages for main residences of Mountpleasant Ave Lwr and Rathmines Road Lwr. The lane-way ends in a cul-de-sac at the southern end. There is currently a significant amount of parking along the lane associated with the current uses. There is restricted access for passing traffic along the lane due to the width of the lane and the double parking at some locations.
- 7.4. I note from site inspection that there is currently a high volume of parking along the lane particularly adjacent to the subject site where there was evidence of double parking. There is at present no parking restrictions along the lane in terms of double yellow lines or pay parking. It appeared from my site inspection that a significant amount of the parking along the lane related to the commercial mechanics' business. In addition to this, many of the mews dwellings constructed along the lane do not currently have any off street parking. Many of the main residents of Rathmines Rd

Lower and Mountpleasant Ave have rear garages and use Fortescue Lane for rear access.

- 7.5. The substantive reason for refusal of the proposed development is based on the limited capacity of Fortescue Lane to accommodate additional vehicular traffic. I note the roads report refers to the ad hoc parking along the lane and the increasing difficulty for additional cars to manoeuvre along the lane particularly for off-street parking. The grounds of appeal argue that off-street parking and a turning area have been provided and believe that the congestion along the lane stems from the current commercial activities and unrestricted parking. This aside it is acknowledged that there is a serious congestion problem at present along the lane. Planning history along the lane includes refusals for additional mews type developments based on the increase on traffic congestion and a recent grant of permission for Blackberry Fair (PL29S.24662) included a condition restricting of access along Fortescue Lane so there was no vehicular access, deliveries or bin collection.
- 7.6. I consider there is currently a significant amount of vehicles travelling along Fortescue Lane. The movement and flow of the traffic is restricted because of the width of the lane and current double parking along the lane. It is currently too narrow to accommodate two-way traffic and parking. To allow additional traffic along the lane for the proposed development would cause a traffic hazard and endanger those road users along the lane.

Layout and Design

- 7.7. The proposed development has been resubmitted following a recent refusal, 3670/15, for one unit of a similar design and layout at No 38 which was refused on grounds of access and the absence of a coordinated approach to development along the lane. In an attempt to overcome this refusal adjoining landowners have submitted a joint proposal with the set back of 5.5m to accommodate 2 parking spaces.
- 7.8. Section 16.10.16 of the development plan provides guidance for new Mews development and specifically requires they would not inhibit vehicular access or the car parking space for the benefit for current dwellings. It is assumed that the garages at No 38 and 37 serve the main dwellings and to remove these would place additional pressure on the parking along Fortescue Lane. The removal of the car

parking for 37 and 38 Mountpleasant Ave Lower have a negative impact on the residential amenity of these residents, this is further discussed below in Section 7.11, and be contrary to the guidance in Section 16.10.16 in this respect.

7.9. In addition, Section 16.10.16 also requires new buildings to complement the character of both the mews lane and main building with regard scale and massing and should be informed by established building lines. Those mews dwellings which have been developed long Fortescue Lane are compliant with the policies of the development plan where they front directly onto the lane and include integrated parking in the most part. This pattern of development has allowed a building line to be established, directly abutting Fortescue Lane, which provides a sense of enclosure and visual continuity along the Lane. I do not consider this proposal follows the pattern of development of existing mews as it is located back from the lane by 5.5m to accommodate additional parking and therefore does not comply with guidance in Section 16.10.16.

Comment [AM01]: IT might be worth including a comment about the pattern of existing development along the Lane. ie use of integrated parking, and established building line

7.10. I consider the design and layout of the proposed dwellings, in particular the setback from the lane, is not in keeping with the current pattern of development and building line along Fortescue Lane and therefore would have negative impact on the visual amenity.

Built Heritage

7.11. The site is located with the curtilage of protected structures at Mountpleasant, and the Z2 zoning objective of the site is to protect and/or improve the amenities of residential conservation areas. The proposal relates to the demolition of two single storey garages to the rear of No 37 Mountpleasant and a single storey outbuilding to the rear of No 38 Mountpleasant. A conservation statement submitted with the proposal includes photographs of the buildings to be demolished. These structures are relatively modern additions and do not contain any features of merit. I consider there would be no negative impact from the demolition of the buildings either in their own right, or on the setting or character of the protected structure

7.12. In relation to the impact of the proposed new dwellings on the character and setting of the protected structures, Policy CHC2 requires that the special interest of protected structures is protected. In addition, Section 11.1.5.3 seeks to ensure that

the design, form, scale, height, proportions, siting and materials of the new development should complement the special character of the protected structure, and that the traditional proportionate relationship in scale between buildings, gardens and mews structures should be retained. I note that the submitted conservation statement does not make any reference to the impact of the proposed development on the protected structures.

- 7.13. The current proposal includes a setback of 5.5m from the edge of Fortescue Lane to accommodate parking spaces and a turning area to the front of the proposed houses. This layout requires a proportionally large land take from the curtilage of the protected structures than would normally be required for a mews type dwelling affecting the traditional relationship in scale between the original houses and any mews structures. Furthermore, the submitted design is a two storey suburban type unit with render finish and non-selected type for the window frames which fails to relate to, or complement the character of the protected structures.
- 7.14. Having regard to the proposed layout, relationship with the protected structures, and poor quality design, I consider the proposed development would have a detrimental impact on the character and setting of protected structures of No 37 and No 38 Mountpleasant Avenue Lower, contrary to the provisions of Policy CHC2 of the Development Plan.

Residential Amenity

- 7.15. Observations raise the impact of the proposed development on residential amenity in particular the potential impact of overshadowing. I have assessed the proposed development and the impact on residential amenity.
- 7.16. Overshadowing: The subject site is south west facing. The proposed units are not located adjacent to any dwellings. It has been submitted that the proposed units will cause overshadowing on the rear garden of No 36 Mountpleasant Ave Lwr. Based on the orientation of the site there is a potential for the proposed development to cause some overshadowing in the rear garden on No 37 in early morning although I do not consider the amount would be significant or at a location which would have a serious negative impact on the residential amenities of the adjoining properties.

7.17. Separation distance: The required separation distance between opposing windows of main houses and mews dwellings is generally 22m unless the site is constrained and an innovative design is proposed. The proposed development is located 19m from the rear of the existing dwellings. This distance does not take into consideration the any extension to No 38 permitted in 29S.245225. Therefore, I consider the separation distance of the proposed development to be insufficient to comply with the development plan guidance and protect the residential amenities of the main dwellings.

Other Matters

7.18. Co-ordinated approach: Previous proposals along Fortescue Lane have been refused for reasons of inadequate capacity to accommodate additional vehicular traffic. The amount of submitted applications in the past ten years provides evidence of the high level of demand for these mews dwellings. The planning authority have consistently raised concerns on additional volume of traffic generation along Fortescue Lane. Section 16.10.16 of the development plan requires the need for a co-ordinated approach to the long-term development of mews development along lanes, this been included as a reason for refusal. The grounds of appeal argue this co-ordination is a function for the Local Authority and whilst it is clearly desirable it is outside the remit of the applicant. The appellant has submitted an indicative sketch of possible future development integrating adjoining sites.

7.19. I consider a unified approach for development along Fortescue Lane. In the absence of this coordination, the proposed development would constitute piecemeal development and set a precedence for similar type developments along the lane. Therefore, to permit the proposed development, in the absence of a unified approach, would cause serious negative impact on the residential amenity of the surrounding area.

Appropriate Assessment

7.20. Having regard to the nature and scale of the proposed development within a serviced area and separation distance to the nearest European site, 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 the conservation objectives of any European site.

8.0 Recommendation

I recommend that planning permission should be refused for the reasons and considerations as set out below.

Reasons and Considerations

1. Having regard to the existing pattern of development on Fortescue Lane, the limited capacity of the lane to accommodate vehicular traffic, and in the absence of a lane for the co-ordinated development of future development, it is considered the proposed development would lead to an additional buildup of traffic along the lane resulting in traffic congestion and the creation of a traffic hazard and have a serious negative impact on the residential amenity of the adjoining residents. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area. Having regard to the sitting of the proposed development to the rear of the protected structures at No 37 and No 38 Mountpleasant Ave Lower, the layout of the proposed development which provides a 5.5m setback from the established building line to accommodate car parking and a turning circle, and the failure of the layout and design to reflect the mews location and proximity to the protected structures, it is considered that the proposed development would be detrimental to the character and setting of the protected structures and the visual amenity of Fortescue Lane. The proposed development would, therefore, be contrary to the provisions of Policy CHC2 of the Dublin City Development Plan 2016-2022, and the proper planning and sustainable development of the area.

Karen Hamilton
Planning Inspector

07th of November 2016