



An
Bord
Pleanála

Inspector's Report 29N.248552

Development	House with separate garage
Location	Rear of 45 Belgrove Road, Clontarf, Dublin 3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2378/17.
Applicants	Colm & May Gallagher
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellants	Colm & May Gallagher
Observers	Linda & Martin Norton Pat Lawlor Gerald & Clare Roebuck Derek Beatty
Date of Site Inspection	11 th September 2017
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1. The site is to the rear of 45 Belgrove Road, Clontarf, Dublin 3. Belgrove Road runs south from Kincora Road to Clontarf Road and the seashore. The eastern side of the road is occupied by established two-storey terraced housing (4 houses per block) and the western side is made up of detached single storey dwellings. The subject site is the rear garden of an end of terrace dwelling near the northern end of the road, where the site's northern boundary bounds the rear of two storey, semi-detached dwellings on Kincora Road.
- 1.2. The host site has a long back garden running east west with high hedges to either side and a tall sycamore tree at the north western corner.
- 1.3. There is a shed close to the rear of the site which is within the rear garden of No 52 Vernon Ave. From the maps provided, it appears that the subject site does not extend to meet the rear of No 52 Vernon Ave. There are also sheds near the site boundary in the rear gardens of a few of the dwellings on Kincora Road. The houses themselves are some distance from the site because of the depth of the gardens, except in the case of No 98A which is a two storey house close to the north western end of the site boundary, built well back from the road, on part of what was formerly the rear garden of No 98. Similarly two dwellings were built within what was formerly the rear garden of No 88 Kincora Road but these front onto Belgrove Road and therefore adjoin the host site rather than the subject site.
- 1.4. A narrow laneway, running east from Belgrove Road, at the end of four terrace blocks (16 houses) to the south, follows the flank of the terraced property to its end where it makes a right angle turn northwards and provides access to the rear of the 16 properties, most of which have sheds/garages along the laneway. The building line along the laneway is irregular, with some buildings set back but with a remaining projecting wall to identify the extent of the property.
- 1.5. The laneway connects, via other laneways, with Vernon Avenue which runs north south parallel to Belgrove Road. The opposite side of the laneway runs along a building site. On the date of inspection a notice at the end of the laneway stated Dublin City Council's intention to consider extinguishing a public right of way along this laneway and also along a laneway to the east to Vernon Avenue, and inviting representations or objections by the 8th June 2017.

- 1.6. These laneways run along the flanks and ends of gardens and access the rear of properties including the rear of terraced dwellings on Vernon Avenue. They also access back land, formerly open space / playing facilities, where construction of a 24 unit housing development (granted under 29N.237457) is currently underway, with its main access proposed from a new road running east to Vernon Avenue, but also utilising the subject laneway for internal access. A temporary set-back of the right angle bend in the subject laneway has been accommodated by the adjoining dwelling site to facilitate construction traffic.
- 1.7. There are a number of street lighting columns along the laneway and also at least one security camera.
- 1.8. The laneway forms the rear boundary of 15 of the houses. The subject site extends east beyond the laneway and its access, currently overgrown and disused, is along the southern boundary of the subject site.
- 1.9. The subject site therefore extends across the northern end of the laneway cutting off potential access to the laneway from the large rear gardens on Kincora Road.
- 1.10. The site is given as 332m².

2.0 Proposed Development

- 2.1. It is proposed to erect a two-storey, half hipped, asymmetrical, dormer style house with its long axis oriented east west. The ground floor area is set back over part of the length of the building to facilitate the entrance, which faces southwards towards the lateral boundary of the host site. The entrance and two windows face south under the first floor overhang and two other windows face southwards as part of the main elevation, c720mm from the boundary. The other main elevation is to the north where there are three windows in the elevation 504mm from the boundary. Most of the western elevation at ground level is glazed and there is a glazed double door and side panel in the eastern elevation. At first floor there are two bedroom windows in the gables facing west, and also one bedroom window facing east. The remainder of the first floor is to be lit by roof windows including a very large one above the entrance lobby and stairs. The proposed dwelling has dimensions of 6.112m x 17.362m and has a given floor area of 189.2m². It is proposed to erect a separate

garage of 27.4m². there is a garden to the west and an area to the east between the proposed dwelling and garage indicated as a parking area for two cars.

- 2.2. The proposed dwelling is 3.765m to eaves height on the northern end and 4.745m to eaves on the southern end with a ridge height of 7.250m. It occupies most of the width of the site being 6.112m wide compared to the site width which varies between 7.514m and 7.3m. Distances to boundaries of 0.504m and 0.720m are indicated.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for one reason:

1 Having regard to the standards for 'Mews' as set out in section 16.10.16 of the Dublin City Development Plan 2016-2022, it is considered that the proposed news development which would have an access onto a laneway network, with substandard carriageway widths would be premature and represent a potential endangerment to public safety by reason of a traffic hazard. The proposed development would, therefore be, contrary to the said provisions of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The proposal would appear to constitute the first mews dwelling on this side of the laneway with obvious potential for other news developments on Belgrove Road and Vernon Avenue. It would be recommended that some form of indicative masterplan be provided that would indicate how the development would fit into, facilitate or at least not impede the potential development mews scheme.
- From the submitted layout plan it is not clear if the proposal will be dependent on the development of the housing scheme permitted under 2401/13. The Development Plan states that potential mews laneways must have a minimum carriageway of 4.8m in width (5.5m where no verges or footpaths are

provided). All mews lanes will be considered to be shared surfaces, and footpaths need not necessarily be provided. It is clear that without the development of the permitted housing there is insufficient road width.

- It is considered that while mews sites can set their own character being located away from the primary public realm, it would be preferable if there was some consistency to their design as part of an eventual composite streetscape. No rainwater goods are shown.
- While the subject proposal will not have a significant impact on existing and proposed adjoining dwellings access to daylight, it is noted that there is the potential for adjoining mews developments to the south and the concern would be that the depth of the proposed dwelling could have potential negative impact on 3rd parties access to daylight. As well as having similar front building lines, mews dwellings should have matching rear building lines.
- Concern about the level of daylight received in some of the proposed habitable rooms at ground floor level from potential obstruction due to proximity to site boundaries. This should be assessed and potential to increase daylight access examined.
- The potential dis-amenity for solar glare/dazzle from solar panels should be examined.
- While adjoining gardens are mostly quite deep and the proposal will be relatively well set back from adjoining 3rd party windows, the depth of the proposed structure might be regarded as being overly dominant upon the adjoining amenity space. Some consideration should also be given to the possibility for future adjoining mews developments.
- Overlooking – a minimum distance of 11 m should be sought to 3rd party boundaries. Ground floor opes should be at least 1.0m away from 3rd boundaries unless they are high level and fitted with opaque glazing.
- The proposed development will be more than 22m away from the primary rear elevation and 11m from its residual private open space. Some of the ground floor opes to the north and south are less than 1.0m to the party boundary.

- The 1st floor southern and northern rooflights appear to be serving non-habitable space and it would be recommended that they are permanently fitted with opaque glazing. That on the southern 1st floor could be significantly reduced and its cill level raised.
- Private open space – 10m² per bed space is required, 82m² is proposed and there is sufficient residual open space for the parent dwelling.
- Appropriate assessment – not likely to impact.
- Recommending refusal.

3.2.2. Other Technical Reports

- Engineering Department - Drainage Division 3/4/17 – Further information:
Due to the lack of adequate drainage information it is not possible to state that satisfactory drainage can be provided for this development.

Show where it is proposed to connect to existing public foul and surface drainage system.

3.3. Third Party Observations

- Third party observations on the file have been read and noted.

4.0 Planning History

0064/17 SHEC Social Housing Exemption Certificate, granted.

Adjacent

PL29N.242866 planning authority Reg. Ref. 2401/13 planning permission granted for demolition of building and construction of 17 dwellings and associated site works between Nos. 28 and 34 Vernon Avenue and to the rear of 34-50 Vernon Avenue, 15-43 Belgrove Road, 96-98 Kincora Road, Nos. 13-15 St. Joseph's Square and Nos. 9-11 Vernon Wood, Dublin 3 with new access from Vernon Avenue. This development is currently under construction.

PL29N.237457 (Reg. Ref. 4245/09) – planning permission refused for residential development (amendment of planning reg. ref. 4754/06) to include demolition of existing structure and construction of 24 no. dwellings at 28-34 Vernon Avenue, rear of 34-50 Vernon Avenue, 15-43 Belgrove Road, 96-98 Kincora Road, 13-15 St Joseph’s Square and 9-11 Vernon Wood, Clontarf, Dublin 3; for reasons including inadequate parking provision, overdevelopment, excessive scale leading to overlooking and parking on adjoining road and that it would be visually obtrusive and seriously injure residential amenities.

Reg. Ref. 4754/06 – Permission granted by planning authority in 2007 for a scheme of 12 houses and 18 apartments at this location. A subsequent 3rd party appeal was withdrawn – PL29N.222038. An application to extend this permission was refused by the planning authority on the basis that the scheme and in particular the apartment element would be cumulatively deficient and significantly substandard in relation to residential amenity provision, which would materially contravene the current Dublin City Development Plan 2011-2017.

5.0 Policy Context

5.1. Development Plan

QH1: To have regard to the DEHLG Guidelines on ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007), ‘Delivering Homes Sustaining Communities – Statement on Housing Policy’ (2007), ‘Sustainable Urban Housing: Design Standards for New Apartments’ (2015) and ‘Sustainable Residential Development in Urban Areas’ and the accompanying ‘Urban Design Manual: A Best Practice Guide’ (2009).

QH5: To promote residential development addressing any shortfall in housing provision through active land management and a coordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and under-utilised sites.

QH13: To ensure that all new housing is designed in a way that is adaptable and flexible to the changing needs of the homeowner as set out in the Residential Quality Standards and with regard to the Lifetime Homes Guidance contained in Section 5.2 of the Department of Environment, Heritage and Local Government 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007).

QH21: To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.

QH22: To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.

16.10.8 Backland Development Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists. Backland development is generally defined as development of land that lies to the rear of an existing property or building line. The development of individual backland sites can conflict with the established pattern and character of development in an area. Backland development can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. By blocking access, it can constitute piecemeal development and inhibit the development of a larger backland area. Applications for backland development will be considered on their own merits.

16.10.16 Mews Dwellings a) Dublin City Council will actively encourage schemes which provide a unified approach to the development of residential mews lanes and where consensus between all property owners has been agreed. This unified approach framework is the preferred alternative to individual development proposals.

c) Development will generally be confined to two-storey buildings. In certain circumstances, three-storey mews developments incorporating apartments will be acceptable, where the proposed mews building is subordinate in height and scale to the main building, where there is sufficient depth between the main building and the proposed mews building to ensure privacy, where an acceptable level of open space is provided and where the laneway is suitable for the resulting traffic conditions and where the apartment units are New buildings should complement the character of both the mews lane and main building with regard to scale, massing, height, building depth, roof treatment and materials. The design of such proposals should represent an innovative architectural response to the site and should be informed by established building lines and plot width. Depending on the context of the location, mews buildings may be required to incorporate gable-ended pitched roofs.

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

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

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

j) Private open space shall be provided

16.38 Car Parking Standards – parking area 3 1.5 space pre dwelling, maximum.

APPENDIX 5 – ROADS STANDARDS FOR VARIOUS CLASSES OF DEVELOPMENT

In general, where houses are on both sides of the road, the minimum width should be 6.5m with two 1.8m footpaths. Where houses are on one side only, the minimum width of road should be 5.5m with a 1.8m footpath on the side next to the houses, and a footpath or rubbing kerb on the opposite side, depending on likely pedestrian usage. Roads in housing areas which are intended for use as bus routes should be 7.5m wide, with 2.5m footpaths. Where only one footpath is deemed by the planning authority to be necessary, a brush kerb of 0.5m shall be provided. Where appropriate, measures for traffic calming should be included in the design of all new housing estates. The planning authority will adopt a flexible attitude in regard to restricted road widths over short lengths where no other practicable solution is possible. However, this flexible attitude will not apply where it is not possible to provide an access of sufficient width to comply with safety and engineering requirements.

5.2. Natural Heritage Designations

5.3. The South Dublin Bay and River Tolka SPA site code 004024 is the nearest Natura Sites, situated c 300m away.

6.0 The Appeal

6.1. Grounds of Appeal

6.2. David Moran Architect has submitted an appeal on behalf of the first party against the decision to refuse permission, which includes:

- Re. precedent – the subject site is in excess of 16m longer than others that may possibly be served by the same lane network.
- The proposed detached garage is a size suitable only as an outbuilding sufficient only for a car and some storage, there is no intention that this would become a dwelling.

- The building mirrors the character of buildings in the area while lower in profile. There is no direct overlooking. First floor windows are 11m or more distant from the boundary they face. The roof profile reduces the potential for overshadowing to less than existing trees and shrubs.
- The gardens to the north are very deep and the height of the north elevations is not significantly greater than the existing boundary treatment.
- Any increase in noise will be limited.
- There will be minimal reduction in trees. The tree in the vicinity of the proposed garage is ivy covered and in poor condition.
- Trees obscure views to Dublin Bay to an equal degree and the permitted development under 2401/13 is likely to obscure any views. No high wall is required as no direct overlooking is proposed.
- They are happy to accept a condition re. finishes.
- Survey information based on OS information. There is no detrimental impact on any more recent extensions.
- Boundary treatment will comply with conditions; maintaining insofar as possible existing conditions.
- Gutters and walls are contained fully within the footprint of existing boundaries.
- Conflict with vehicles of Block F (2401/13) will be controlled as far as possible. No outward opening gate is proposed (sliding gate). Access to the parent property has been enjoyed to this lane, which has become overgrown.
- The development is designed as a house for life.
- A masterplan based on the viability of further development can be prepared.
- The application is not dependent on 2401/13 proceeding.
- Any reference to lane width relates to planning applications permitted in the vicinity. Appendix 1.

- The development Plan states that the planning authority will adopt a flexible attitude in regard to restricted road widths over short lengths where no other practicable solution is possible.
- The length of laneway below general recommendation is less than 16m.
- The absence of sufficient road width is reflected in the applications in Appendix 1.
- Any future mews development to the south would not be in keeping with the subject site. The alignment could be maintained as the rear most part of the development aligns with existing garage development in the mews location of those houses.
- The scale of the proposed development is that of a six bedroom house, the proposal is for five bedrooms. Finishes can be conditioned. The brief did not include a modern format.
- The distance to adjoining buildings does not warrant the production of a shadow diagram.
- Re. the levels of light into the house, due to proximity to the boundaries at ground floor level – the windows provide secondary and utility light only, the main light is from east and west.
- Any overlooking of the property, permitted Block F of 2401/13, is limited to one bedroom only which is in excess of 16m from the boundary if faces. Garden screening could be conditioned. It would also reduce overlooking from the property to the north, which was a concern raised in relation to 2402/13.
- Any glazing within 1m of the boundary will be obscurely glazed and any high level glazing to the non-habitable areas is for light purposes and could be, in part, obscurely glazed.
- The only reason for refusal is the lane width. Flexibility has been used in other developments in the vicinity and should be applied in this case also.

- County Development Plan Policy SC13 is referenced - to promote sustainable densities.
- Policy QH5 is referenced. - To promote residential development addressing any shortfall in housing provision through active land management and a co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and under-utilised sites.
- To effectively sterilise this site is contrary to the proper planning and development of the area.

6.3. **Planning Authority Response**

- The planning authority has not responded to the grounds of appeal

6.4. **Observations**

6.5. Four observations have been received.

6.6. An observation on the appeal has been submitted by Linda and Michael Norton, 94 Kincora Road, which includes:

- The proposed house would be shoehorned onto a very narrow garden site which would have the effect of bursting at the seams. There is also the worry of overhanging gutters and water damage to their property.
- The development is overbearing, out of scale and out of character with the Edwardian style of the area.
- The loss of existing trees would adversely affect the amenity.
- Noise disturbance, overlooking, loss of privacy and overshadowing are concerns.
- They support the refusal for traffic hazard, etc.
- Permission is currently being sought for gates at the entrances off Vernon Ave and Belgrove Road which the proposed development would have to access to gain entry.
- Fire Brigade, ambulance and Garda vehicles may have difficulty gaining entry.

6.7. An observation on the appeal has been submitted by Pat Lawlor, 92 Kincora Road, which includes:

- The development represents an undesirable precedent. There is potential for a further 15 dwellings to the rear of Belgrove Rd and also potential for development of news dwellings to the rear of No's 34-48 Vernon Ave, introducing traffic and other activities into the rear lane reducing the amenity of surrounding properties This in an area where traffic levels are high due to Nolan's Supermarket, Holy Faith School and shops.
- Scale – the house will be twice the size of the existing house. It will directly affect 4 houses on Kincora Rd. It is excessively close to 5 property boundaries. It is necessary to provide a setback at ground floor from the shared boundary with No 43 Belgrove Rd in order to get into the house.
- Negative impact on privacy – the proposed development is located immediately adjacent to the rear gardens on Kincora Road with no setback from the shared boundary walls, giving it an imposing presence when viewed from surrounding gardens. The velux windows in the elevation facing the observer's garden gives the potential for overlooking and loss of privacy; a significantly negative change given the privacy enjoyed at present.
- Obstruction of sunlight due to the 7.25m height and 17.4m length and its siting immediately adjacent to the shared boundary wall and it's positioning south of the observer's garden in the path of the late morning and afternoon sun.
- Limited car parking – 2 car spaces are shown but independent access and egress will not be possible unless one of the cars is moved.
- Reduction in levels of residential amenity – due to visibility and impact on privacy and sunlight.
- Observer agrees with the refusal reason but feels that precedent should also be a refusal reason.

6.8. An observation on the appeal has been submitted by Hughes Planning & Development Consultants on behalf of Colm and May Gallagher, 45 Belgrove Road, which includes:

- There are many trees on the site one of which has been removed very recently.
- From an aerial view there is no existing laneway at this location.
- The proposal is for backland development and it will result in a significant loss of amenity to adjoining properties including loss of privacy, overlooking and overshadowing. It will conflict with the established character of the surrounding area and would set an undesirable precedent. It would be accessed by a substandard narrow laneway.
- It is not designed to be flexible to changing circumstances as required by S16.10 and Policy QH21 of the Development Plan.
- Observer supports the refusal reason and submits photographs showing laneway.
- S 16.10.16 requires mews laneways to have a minimum width of 4.8m or 5.5m where no verge or footpath is provided. The subject laneway is 3.2m; the drawings indicate the width as 4.5m.
- S 5.1 of Appendix 5 of the Development Plan, cited by the first party with reference to flexibility in regard to restricted road width, also refers to flexibility not applying where it is not possible to provide an access of sufficient width to comply with safety and engineering requirements. The access is extremely unsafe for pedestrians and vehicles.
- A refuse truck would be unable to access the site. Bins would have to be left at the entrance on Vernon Ave obstructing the footpath.
- There is no existing access to the site from the laneway, not even an access gate. There is a wall separating the laneway from the site. The creation of an entrance should have been included in the development description.
- There are only two laneways which provide access to the subject site and it is Dublin City Council's intention to extinguish the public right of way along both, *to prevent break-ins to properties accessed via the laneway, to prevent anti-social behaviour, dumping & graffiti in the laneway. The proposed method of closure is by means of electronic gates with keypads. The residents are willing to place 2 gates on each section of laneway if required (4 gates in*

total). Correspondence in relation to the road closure is attached to the submission.

- Overlooking – the proximity to boundaries would result in loss of privacy. Windows in the northern elevation would overlook private amenity space. The quality of the drawings is substandard.
- The 720mm distance to the southern boundary with first floor window would be seriously impacted if another mews dwelling was approved to the south. Mews development on these narrow sites would have a serious negative impact on the overall area.
- No daylight overshadowing assessment has been undertaken. The proposed two-storey mass would result in profound overshadowing and loss of daylight for morning and evening sun.
- The dwelling would itself have inadequate daylight.
- Overdevelopment – the scale and proximity to boundaries indicate that the proposal represents overdevelopment. There is no potential to be flexible re. future extensions or amendments.
- The observer takes issue with the statement in the grounds that ‘any future development of news development to houses to the south of the proposal are for conditions not in keeping with that of the subject site. The alignment could be maintained as the rear most part of the proposed development aligns with existing garage development in the mews location to those houses to the south’; referring also to the planner’s report which prefers consistency in mews design. The proposed dwelling being the first should set a good precedent, which is not the case. Any future dwelling to the south would severely overshadow the proposed dwelling. A drawing which seeks to represent potential similar mews development is included in the observation.
- It will result in significant loss of trees.
- Various precedent cases are cited, including PL 29N.226998 Ref. No 4511/07 for the construction of two number two-storey semi-detached houses at number 62 and number 64 Kincora Road, Clontarf. Refused by the Board on foot of a grant of permission by the planning authority for the following reason:

Having regard to the existing character of the area, it is considered that the proposed development, served by a substandard driveway and comprising backland development out of character with the pattern of development in the area, would introduce noise and disturbance (particularly from vehicle manoeuvres) into adjoining rear gardens and would constitute an undesirable precedent for similar development in the area. The proposed development would seriously injure the amenities of the area and depreciate the value of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

6.9. An observation on the appeal has been submitted by Gerard and Clare Roebuck, 43 Belgrove Road, which includes:

- Inaccurate drawings do not take account of extensions to No 43 and No 45. In contrast a building which does not yet exist (block F ref 2401/13) is included. A building is shown at the end of the observer's garden which was demolished in 2004.
- The proposed house is 18m not 24m from the rear of No 45 and only 11m from the rear of observer's house.
- It would extend along 70% of the observer's boundary not 50% as shown.
- The access to the laneway has not been used since the observer moved in in 2001.
- They have serious concerns regarding the safety of pedestrians on such a narrow laneway.
- The south facing wall and entrance would be just 74cm from the boundary allowing significant overlooking. Their family rooms external doors and windows are 11m from the proposed gable which has two first floor bedroom windows, significantly overlooking their dwelling and garden.
- The scale is out of character with the area: three times the width, etc. A photograph is attached with a simulated view of the proposed development, from observer's living space.
- The zoning is cited.

- Backland development – it conflicts with established pattern of development in the area and would have a negative impact on property value.
- Precedent examples of development on narrow lanes, cited by the first party, are from prior to 2016-2022 Plan.
- Photographs are attached to the submission.

7.0 **Assessment**

7.1. The issues which arise in relation to this appeal are: appropriate assessment, residential amenity, backland development / mews development, precedent, proximity to boundaries, the laneway and loss of a tree, and the following assessment is dealt with under those headings.

7.2. **Appropriate Assessment**

7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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.

7.3. **Residential Amenity**

7.4. The impact on residential amenity is the main concern expressed in the observations. The impact includes the overbearing nature of the proposed dwelling in terms of scale and proximity; the impact on privacy, and loss of light.

7.5. The grounds of appeal states that the design mirrors the character of buildings in the area while lower in profile and that there is no direct overlooking.

7.6. The plans are presented at the minimum scale permissible¹ⁱ and provide a minimum of information. It is clear however that the large building footprint proposed would be

¹ Article 23. (1)(b) of the 2001 Planning and Development Regulations ‘plans, elevations and sections shall be drawn to a scale of not less than 1:200 (which shall be indicated thereon), or such other scale as may be agreed with the planning authority’

excessively close to site boundaries, as little as half a metre from the northern boundary and 0.72m from the southern boundary, with windows in the elevations facing these boundaries.

- 7.7. The proximity to boundaries would limit the amenity value of the proposed windows in the southern and northern elevations which serve living room, kitchen, dining room and other important areas, which would diminish the amenity of the proposed dwelling.
- 7.8. Observers have concerns at the proximity of the gable and the gable windows to the rear of properties they face and point to inaccuracies in the drawings in this regard; that the extent of the existing development on the subject site and on the adjoining site is not correctly represented on the drawings. I accept that in both cases the existing development is not correctly represented and in particular that the dwelling in the adjoining site extends much farther back than shown. In my opinion the proposed development and the proposed first floor windows, would be unduly close to the rear of existing residential property and would have a negative impact on the amenities of these properties.
- 7.9. Concerns regarding the impact on daylight and sunlight have been raised. In relation to sunlight the issue would arise north of the proposed buildings. As pointed out by the first party tall trees already impact on sunlight to property to the north, nevertheless impact on sunlight should have been assessed.
- 7.10. The scale of the proposed development is excessive and out of character with the area and would have an overbearing relationship with adjoining property which it would unduly overlook; and the proposed development should be refused for its impact on residential amenity.
- 7.11. **Backland Development / Mews Development**
- 7.12. The development is variously described as backland development and mews development. The concepts are very different.
- 7.13. Typically residential mews development involves the conversion or replacement for residential use of a coach house on a laneway which serves as access to the rear of existing dwellings. There is an established building line and similar plot widths and the mews building is subordinate in height and scale to the main building. The

development plan requires that in such cases 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.

- 7.14. The proposed development does not address the laneway. Its front faces south towards the side boundary with No 43 Belgrove Road. The scale, site layout and design as proposed does not complement the character of the mews lane or main building with regard to scale, massing, height, building depth or roof treatment. As pointed out by observers the scale is excessive, far exceeding the scale of the host dwelling. To be developed in the form of a mews, the proposed dwelling should face east, to an extended laneway spur and align with the eastern boundary of the sites to the south. Its footprint and overall scale should not exceed that of the host dwelling with no windows facing lateral boundaries, for reasons including protecting the development potential of adjoining properties. In the circumstances of this site with large gardens to the north, where residential backland development was previously proposed, consideration would also need to be given to protecting the development potential of these adjoining properties.
- 7.15. As designed, the proposal is for backland development. Backland development is referred to in the Development Plan and defined as development of land that lies to the rear of an existing property or building line. Comprehensive backland development, such as the development being carried out on lands to the south is favoured, but caution is recommended in relation to the development of individual backland sites because of the significant loss of amenity to adjoining properties, including loss of privacy, overlooking and overshadowing, that can result.
- 7.16. In my opinion the proposed development comprises disorderly backland development which would can cause a significant loss of amenity to existing properties and would seriously inhibit development of adjoining property.
- 7.17. **Precedent**
- 7.18. Precedent has been raised as an issue by some observers: that permitting the proposed development could lead to further similar development. The first party states that precedent would not arise since future mews development to the south would not be in keeping with the subject site. In my opinion a dwelling on the subject

site would only be acceptable in the context of fitting into an overall development scheme and I note that Dublin City Council encourages schemes which provide a unified approach to the development of residential mews lanes and where consensus between all property owners has been agreed. This unified approach framework is stated to be the preferred alternative to individual development proposals.

7.19. Proximity to Boundaries

7.20. The proximity of windows to boundaries calls into question compliance with the Building Regulations with regard to the spread of fire and this would require clarification prior to any permission being granted.

7.21. The need to protect light to these windows could inhibit the development of buildings on adjoining properties. Due to its design and scale and the proximity to boundaries the proposed development would claim the daylight and sunlight available which would inhibit future development of adjoining lands.

7.22. The proper planning and sustainable development of the area would require examination of the development potential of adjoining properties such that any development of the subject site would be proofed against the limiting impact it would have, if any, on such potential development.

7.23. Observers have pointed out that there is no information provided on boundary treatment, and such information would be required particularly in the context of the close proximity of the proposed development to boundaries

7.24. Observers have questioned how ongoing maintenance will be carried out in close proximity to boundaries. In the context of a detached property, maintenance of a two storey building only 0.504m to 0.720m from boundaries gives rise to concern.

7.25. In my opinion, in the context of its design as a detached dwelling with windows facing boundaries, the proximity to boundaries is unacceptable.

7.26. The laneway

7.27. The unsuitability of access onto the laneway network, with substandard carriageway widths, is the reason cited in the decision for refusing the development.

- 7.28. The laneway which currently serves this site from Belgrove Road has limitations in terms of its width and alignment, in particular the right angle bend at its southern end severely limits its use. The laneway to Vernon Avenue is also restricted in width.
- 7.29. The residential development underway on the adjacent site proposes a new access to Vernon Avenue and also proposes to use part of the existing laneway network for access within that development. As previously noted a proposal is currently being considered by Dublin City Council to extinguish public rights of way along the laneway to Belgrove Road and also the laneway to the east to Vernon Avenue. If such closure occurs, it is unclear whether the proposed development would be permitted to use the new access to Vernon Avenue being created by the development currently underway. Access to a gated laneway would not be a suitable form of access to the proposed dwelling.
- 7.30. The refusal reason refers to prematurity with regard to the access, and pending the determination regarding the lane closure and alternative access arrangements if necessary, the proposed access to the laneway for this development is premature.

7.31. **Loss of a Tree**

- 7.32. The loss of a tree, which would be removed to make way for the development has been raised as a concern. The grounds of appeal states that the tree is ivy covered and in poor condition. On the date of inspection the tree appeared to be in good condition, however the loss of a tree which is not protected by tree preservation order and which is close to a dwelling, should not be a reason to refuse permission.

8.0 **Recommendation**

- 8.1. In the light of the above assessment I recommend that planning permission be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1 As proposed the development would be overbearing in its relationship with adjacent residential property and adversely impact on privacy, in addition due to its orientation and proximity to boundaries including the proximity of windows facing boundaries, the proposed development would be substandard and would inhibit future development of adjoining lands which would be contrary to the proper planning and sustainable development of the area.

2 The laneway network from which the proposed mews development would gain access is currently substandard and the proposed development, pending improvement in access, would endanger public safety by reason of a traffic hazard.

3 The proposed development would be premature pending the agreement of the planning authority to a scheme which would provide a unified approach to residential development along the lane.

Planning Inspector

13 September 2017

Appendices

1 Photographs

2 Extracts from the Dublin City Development Plan 2016-2022
