



An
Bord
Pleanála

Inspector's Report 248716.

Development	One and two storey 2 bedroom mews type dwelling with vehicular access (x2) to lane exiting between 1B and No 1 St Lawrence Road, Clontarf.
Location	Rear of 70 Clontarf Road.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	Web 1143/17
Applicants	Colm & Ramona Kennedy
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	John & Deirdre Hughes Adrian Langan
Observers	Ann & Pat O'Reilly
Date of Site Inspection	21/9/2017
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1. The site is located at the rear of 70 Clontarf Road on a laneway which runs west from St Lawrence Road. and ending at a Church grounds.
- 1.2. The laneway (93m long) joins St Lawrence Road between the flanks of two dwellings which face that road: No 1B St Lawrence Road and No 1 St Lawrence Road. The laneway provides access to the rear of property on Clontarf Road and at its western end serves as an access to a car park at St Anthony's Catholic Church. The laneway has public lighting and a footpath along one side, that opposite to the subject site. It varies in width and over parts is of sufficient width for one way traffic only. A second laneway runs north from the subject laneway, c 30m from the western end, providing access to the rear of property on St Lawrence Road.
- 1.3. The car park has an exit to Clontarf Road via a circuitous route through several sections of car park and notices on display in the car park require cars to exit to Clontarf Road.
- 1.4. At the western end of the laneway, opposite the Church car park, a recently constructed two storey dwelling fronts the lane, otherwise the lane is bounded by the rear of properties.
- 1.5. The subject site is disused and partly overgrown with evidence of previous construction work. The boundary with the laneway is set back with reference to the boundary to the east. Bounding the eastern end of the site, there is an extended two storey dwelling with a large first floor window in the elevation facing the subject site.
- 1.6. The site is given as 204m².

2.0 Proposed Development

- 2.1. The proposed development is the erection of a 2 bedroom mews type dwelling of one and two storeys with vehicular access to the lane.
- 2.2. The ground floor portion of the proposed development will be set back 5.6m from the boundary with the laneway. Two parking spaces will be provided in the set-back thus created. A side passage 1350mm to 1660mm wide will run along the eastern boundary of the site to provide access to the main site on Clontarf Rd. The proposed

dwelling will be set back from the western boundary by between 900mm and 1800mm. The main access to the dwelling will be in the western elevation where the building line is set back 1800mm from the boundary. A bedroom window faces the western boundary at a distance of 1800mm and a small window to the dining room / livingroom area, at a distance of 900mm therefrom. There is a doorway to a utility room in the front elevation, ie. towards the laneway. The eastern elevation has a kitchen window at ground floor. Facing south there is floor to ceiling glazing including a sliding door, filling most of the elevation at ground level.

- 2.3. The first floor area is longer and narrower than the ground floor. The first floor western elevation is c900mm from the boundary and aligns with the ground floor over part of the elevation but it is cantilevered over the main doorway. It also extends much closer to the laneway, a further c3½ m forward of the ground floor and is narrower than the ground floor with a single column supporting the cantilevered first floor bedroom. The first floor is set back further from the eastern boundary, c3310mm extending to 5410mm and 6430mm. The setback allows a rooflight to be provided above the ground floor kitchen. A rooflight is also proposed in the first floor roof above the double volume hallway. A wide, high level window is proposed facing north towards the laneway at first floor and a bathroom window faces south.
- 2.4. The roofing is described as green roofing. A walled garden of 55sq m is proposed to the rear (south).
- 2.5. The application made by Eileen Cantwell Architects, describes the development as partly two storey, with side setbacks at ground floor of approx 1m to east and west boundaries, while the first floor is in excess of 3m to the east.

Sited partly over the parking bays and with a silhouette profiled to suit the spill of shadow of the 2 storey element onto the lane, and so mitigate impact.

As established in the BRE study attached any impact on sunlight to the St Lawrence Rd properties is not material to the amenity of those dwellings and the overall impact on sunlight and daylight to adjacent properties is slight. The north first floor window cill is raised so ground level detail is less available from the bedroom, to balance for a slightly reduced setback to the rear garden on the opposite side of the lane.

A pedestrian access is being maintained to the lane for one of the two car parking spaces per S(k) ch 17.9.14 of DCDP.

At Dublin City Council's behest and to demonstrate a unified approach to the development of residential mews lanes they submit a masterplan showing one possible format.

The single storey mews was partly built by the time the previous permission lapsed.

The proposed dwelling meets space standards and does not impact adjacent residents

A shadow study accompanies the application. The analysis states that:

- There is loss of sunlight during the early morning to a section of the back garden but from noon on the proposal does not obstruct sunlight to the rear garden. No noticeable effects.
- No 1 St Lawrence Rd. - minor disruption to sunlight over the property's side façade, during the evening, no impact on the private open space.
- 1B- from late afternoon on there is overshadowing the rear areas of the garden to which the rear boundary & hedge contribute. The shadow of the 2 storey profile does not reach any of the rear windows or doors. For two hours around midday the gardens are also shadow free. Therefore according to the BRE guide it cannot be deemed to cause noticeable or significant loss of amenity.
- 1A - apart from some residual impact on a small proportion of the rear gardens, during the late afternoon, the proposal does not impact in any way on sunlight.
- Clever Clogs crèche & Church Hall, no impact.
- Shadow impact drawings for 21 March 10am 12am midday, 2pm and 4pm are provided.

A flood risk assessment is attached. Key design criteria for the GDSDS are met:

1 - Interception storage for the first 10mm of rain fall is prevented from entering the receiving waters with the use of soakaway and permeable paving.

2 - The 30 year runoff from new development is stored in the soakaway and permeable paving and so does not leave the site. (coastal location therefore it is not necessary to store 100 year runoff).

3 - No flooding on the site for 30 year return period as the permeable driveway and soakaway are designed to store this. Flooding of internal property is prevented by ffl 4.05m

4 - Long term storage is not required due to sites coastal location.

3.0 Planning Authority Decision

3.1. Decision

3.2. The planning authority decided to grant planning permission subject to 9 conditions, including:

Conditions.

3 the front first floor window shall be amended by being recessed so it does not overlook the adjoining 3rd party yard area to the north for a distance of less than 11m and /or the window shall be screened to significantly reduce direct overlooking of the open space to the rear of no 1.

4 no flat roofed area shall be used or accessed as a roof garden or patio, and the rear 1st floor bathroom window shall be permanently fitted with opaque glazing, and shall be only capable of being opened above at least 1.8m over the finished floor level.

11 naming and numbering shall be in accordance with a scheme submitted to and agreed in writing by the planning authority.

3.3. Planning Authority Reports

3.3.1. Planning Reports

3.4. The planning report recommending permission includes:

A single storey hipped mews was permitted before and not completed. A 2 storey mews was permitted to the rear of No. 62.

The use of innovative approaches to design and amelioration of potential negative amenity impact, allows mews development which subscribes to NSS, Regional Guidelines and Development Plan: promoting the physical consolidation of the metropolitan area etc.

It complies with plot ratio and site coverage.

Space requirements largely complied with main bedroom is just short of the recommended 13m².

Access to sunlight and daylight is unimpeded.

The rear first floor window will be a bathroom and will be over 13m from the new rear boundary.

The northern ope will be 8.5m from the side boundary of No. 1 St Lawrence Rd, rear yard. It is recommended that this be modified or set back to avoid direct overlooking.

There are no eastern or western side opes at first floor and no ground opes less than 1m from the boundary.

Flat roofed area should not be used as amenity space. Adequate open space is provided.

3.4.1. Other Technical Reports

Engineering Department – Drainage Division, conditions including drainage on a completely separate system.

Roads Streets & Traffic Department Road Planning Division – of interest to the division is the widening of the existing access from the laneway to provide vehicular access for 2 no. cars. There is an existing and established vehicular entrance from the laneway to the rear of No. 70 Clontarf Road. The laneway is approximately 5.5m in width and includes a pedestrian footpath along its northern boundary. The laneway provides both access to the rear of the properties on Clontarf Road and also vehicular and pedestrian access to St Anthony's Church which is positioned at the northern end of the lane. There is an established vehicular entrance at the rear of No. 70 and this is stepped back from the main laneway by approx 1m.

It is unclear from the submitted drawings the full dimensions of the proposed vehicular access but it appears that the applicant wishes to open the full width of the boundary along the lane to allow 2 no. vehicles to be parked adjacent to each other under an overhanging first floor, similar to car port configuration. The access would

be approx. 7m in width. As there is an established residential access from the laneway to the site, no objection is raised. Conditions.

3.5. **Third Party Observations**

3.6. Third Party observations on the file have been read and noted.

4.0 **Planning History**

PL29N.200338 (PA Reg Ref 1677/02) permission granted on foot of planning authority's decision to grant, for a single storey, 2 bedroom house to rear of 70 Clontarf Road. Condition No 1 required that the pitch of the proposed roof be reduced to 30 degrees.

0089/17 Social Housing Exemption Certificate granted.

2580/17, permission granted 25-Sep-2017, for change of use from residential to training centre & part enterprise centre, at 70 Clontarf Road.

PL 29N.111143 (PA Reg Ref 0302/99) permission granted on foot of planning authority's decision to refuse, for a two bedroomed mews to the rear of 62 Clontarf Road.

4782/07 Permission granted for demolition and extension to No. 1B, Saint Lawrence Road, Clontarf, Dublin 3.

5.0 **Policy Context**

5.1. **Development Plan**

The Dublin City Development Plan 2016-2022 is the relevant plan.

Relevant provisions include:

Zoned Z1 to protect provide and improve residential amenities.

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.

16.10.16 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.

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 100m away.

6.0 The Appeal

6.1. Grounds of Appeal

6.2. Two third party appeals have been received.

6.3. Fenton Associates Town Planners and Architects, have submitted an appeal on behalf of the third party: Adrian Langan 1B St Lawrence Road, against the decision to grant permission, which includes:

Mr Langan has modernised and extended his house under ref. 4782/07. He was aware that there was permission for a single storey house in the garden adjoining and had no difficulty with that. The established pattern of development allowed him to extend, knowing that south western sunlight to his extension and the west of his dwelling would not be affected.

He was surprised at the application for a two storey house, with a green roof amenity space and with a clear view into the large picture window into his family room.

The second storey incorporates a bedroom, bathroom and access stair, which could easily be accommodated into a patio style bungalow.

The site allows for access to the residual garden of No. 70 where an application for commercial development has implications for refuse and commercial deliveries being brought up a mews lane which is already congested.

The applications underway are project splitting, using the current application to gain parking spaces for the commercial development which is the subject of a separate application. It should be refused for this reason.

Future exempted development could obliterate the sunlight to their dwelling.

The development is contrary to the Development Plan policies to protect the amenity of adjoining properties.

S16.10.10 – infill housing.

The (other) proposed development 2580/17 seeks permission for two parking spaces to the rear of the property, which will create issues on this congested laneway, already being used as a rat run.

16.10.12 of the Development Plan and appendix A – extensions should not adversely affect adjoining dwellings. The proposed development is a material

contravention. The required standards for residential extensions are set out in Appendix 17.

S17.3 – protection of amenities of neighbouring properties. The applicant did not engage with them prior to the application.

S17.5 – should not dominate or appear overbearing. The proposal is overbearing. See previous permission, 1667/02 / PL 29N.200338 conditioning a reduction in roof pitch.

S17.6 – two storey extensions and loss of daylight – No 1B will be completely overshadowed.

The garden, ground floor and living accommodation of No 1B will be completely overshadowed and should be refused for the effect on the amenities and access to sunlight, daylight and outlook.

Rear gardens face north and the assessment does not take this into account.

The shadow analysis submitted is not adequate. It is said to accord with BRE 2011 but at most it demonstrates compliance with minimum standards and is not compatible with the Development Plan standards.

The benefits gained by the development are to their detriment and should be refused.

The impact can be reduced by a revised single storey proposal.

- 6.4. John & Deirdre Hughes, 69 Clontarf Road, have submitted an appeal against the decision to grant permission, which includes:

Overlooking, security risk and overshadowing adjoining property.

A key factor in buying their house was that the rear and rear garden were not overlooked.

The proposed two-storey building removes all privacy.

A first floor window overlooks their property. Frosted glass can be looked through and is easily replaced.

The two storey mass is problematic.

The stated need, because of lack of privacy to property on the Clontarf Rd, is untrue. There are residential properties the length of the road.

This rental property will be next door to a children's crèche.

The proposal will overshadow their garden.

Their windows face No 70. The proposal will deprive them of natural light and render their garden useless.

The decision contravenes Bord Pleanála's decision PL200338.

The lane is busy with one way traffic coming to Mass and occasionally used as a rat run from St Lawrence Rd to Clontraf Rd in the morning commute. Proposed development will impact on access to the Church.

Parking - lack of parking is already an issue. At least one of the parking spaces will not belong to the mews and many couples / families have multiple vehicles.

Flooding – the overdevelopment of this site is of concern with regard to increased density in a zone recognised as at risk of flooding. This would have a negative impact on local flooding.

Change in the character and lack of consistency with neighbouring properties – surrounding properties are Z2 residential conservation. A modern two storey mews is out of character with such zoning.

None of the surrounding properties have a mews. A proposal for a series of mews properties has been put forward to imply future consistency. No residents were consulted.

The one mews in the area is to the rear of a business and adjoins other businesses.

Lapsed permission – the expired permission was for a single storey. Nothing has changed in the meantime.

The two storey dwelling combined with a three storey business (2580/17) would remove all privacy and enjoyment of their garden and home.

If the development was to respect the Development Plan which states its commitment to restoring residential properties to increase the quality of housing supply it would have proposed restoring number 70 within the Z1 zoning and this

obtrusive mews would not be necessary as the original property is far superior to meet residential needs on a much larger scale in line with the Development Plan.

They request refusal or at a minimum to revert to the original decision and keep the mews to a single storey with an appropriate roof pitch.

6.5. Applicant Response

The development is within accepted sunlight / daylight standards. It is not a material change from the previous proposal in height & massing and aligns with standards set in the current Development Plan and is upheld by precedence. The permission 4782/07 for the extension to No 1B was predicated on their being ensuing development to the rear along the lines as now proposed.

Sunlight

Shadow studies showing the patterns of shadow throughout the day from 10am to 4pm were already submitted with the planning application.

As it is located 20m from No 69 there are no obvious implications for sunlight to the house.

The only shadow is from a substantial tree growing in the plot.

Shadow is not an issue for Langan's extension (No. 1B St Lawrence Rd.). The boundary wall already results in some shadowing.

The generous set back and careful & rigorous paring of the back of the envelope, placing the first floor footprint largely over the parking bay at the north of the plot, diverts shadow spill from the 2 storey element onto the laneway, to allow minimum impact on neighbouring garden & amenity.

As the studies show parameters are met.

Daylight

No 39 no material impact.

No 1B using a simple desktop exercise – was examined with reference to the guide. Visible sky angle at the building's perimeter was measured to quantify the vertical

sky component. Using data including that taken from planning no. 4782/07, a section through the proposed and existing structures was drawn. The proposed mews has a reduced ffl of 4.05m. As is standard the angle taken is from 1.6m above ffl of the rear face of No. 1B and subtends an angle of 16.2° to the corner of 2 storey profile of the mews, set back 3.2m from the common boundary. This results in a visible sky angle of 67° which corresponds to a VSC of 32, and is greater than that required for an acceptable standard of daylight admittance for this ground floor window, as defined by table C1 and Section 2.1.6 of BR209. This standard also sits comfortably inside the 25° angle from the horizontal considered acceptable as a general rule by the BRE guide.

The submission notes slippage in the location of the adjoining extension from the stated 9m setback to 7.3m from the common boundary, however, even in this case, since the angle generated rises to just 19°, adequate daylight admittance to the windows at the back of No 1B is maintained.

Comparison with previous appeal - The height difference is just 500mm. The proposal which opts for a more contemporary format does not differ substantially in height and profile.

Precedence & setbacks - the development which has taken place in mews lanes is overwhelmingly 2 storey. Examples are illustrated.

Traffic

Langans have parking at rear and front. Vehicle access to the laneway is original. There is good parking on Clontarf Road. The existing pattern ought not alter substantially. 17.9.4(k) recommends retaining access to the main structure.

Planning History – it would be difficult to achieve adequately sized single storey development within current standards, without a greater footprint and consequent knock on negative implications. They believe the two storey solution in elongated rear gardens which feature tenuous connection to the original dwellings, represents

a sustainable use of serviced lands and is a reflection of Council policy for this locale.

Separation & privacy – except for the first floor window addressing the rear lane, no habitable room's first floor window is contained in the proposal. There will be no impact on No. 69. All the rear returns of dwellings on Whitehall Terrace, Clontarf Road have first floor windows facing sideways, only controlled by the flanking wall of the adjacent return, such that No 69 directly overlooks No. 70.

The proposed north facing bedroom window, is high level, to limit views to the grounds and funnel to the skyline alone.

As part of the response they are submitting for the consideration of the Board an alternative screen against any direct overlooking from the north facing window.

Items listed as accompanying the response:

- Plan No 1677/02 overlay on current proposal.
- Cross-section for daylight assessment exercise – BR209
- Levels on site plan to OS datum
- Copy of site plan to 4782/07
- Cover letter to 4782/07 application
- Screened first floor window.

6.6. Planning Authority Response

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

6.7. Observations

6.8. An observation has been submitted by Ann & Pat O'Reilly 1A St Lawrence Road. which includes:

Scale has already been determined.

Current proposal would depreciate the value by reason of height and layout. It would overshadow over a much longer part of the year than outlined. The impact on privacy and their ability to use and enjoy their home and garden is of concern.

The laneway is substandard and is one-way for people going to the Church. It is the only entry to the Church, St Anthony's House and two crèches. The development would endanger safety and intensify traffic.

6.9. Further Responses

6.10. Fenton Associates Town Planners and Architects, have responded to the first party response to the grounds of appeal on behalf of the third party Adrian Langan 1B St Lawrence Road, which includes:

The BRE guidelines are not development standards.

Section 16.10.16 of the Development Plan requires the following:

- a) Dublin City Council will actively encourage schemes which provide a unified approach to the development of residential mews lanes and where consensus between all property owners has been agreed. This unified approach framework is the preferred alternative to individual development proposals.
- b) Development will generally be confined to two-storey buildings. In certain circumstances, three-storey mews developments incorporating apartments will be acceptable, where the proposed mews building is subordinate in height and scale to the main building, where there is sufficient depth between the main building and the proposed mews building to ensure privacy, where an acceptable level of open space is provided and where the laneway is suitable for the resulting traffic conditions and where the apartment units are of sufficient size to provide for a high quality residential environment. This is in line with national policy to promote increased residential densities in proximity to the city centre.
- c) 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.

d) 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.

e) Potential mews laneways must have a minimum carriageway of 4.8 m in width (5.5 m where no verges or footpaths are provided).

The development proposal does not comply. The current proposal contravenes the Board's previous decision PL29N.200338.

The proposed mews does not complement the existing character of the area. There is no established building line. The applicant's agent's examples do not apply to the location. The site allows access to No. 70 Clontarf Road in which planning permission has been granted for a commercial development. There are potential implications for refuse and commercial deliveries on an already congested laneway and two parking spaces are proposed on a laneway used as a rat run.

Both applications have the potential to create a traffic hazard.

The development contravenes S 16.10.10 of the Development Plan re infill housing.

Infill housing should:

- a) Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings
- b) Comply with the appropriate minimum habitable room sizes
- c) Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.

The Development Plan is the statutory guiding document against which all applications must be assessed and if the necessary standards are not being met permission should be refused.

Traffic – why are 2 car parking spaces proposed in zone Area 2 where a maximum of 1 space per dwelling is allowed. Criteria for allowing exceptions include

accessibility, road capacity and impact on the road network and mix and appropriateness of uses.

Planning History – if all the must haves cannot be accommodated on the site permission should not have been sought. The application represents overdevelopment.

Conclusion – permission should be refused due to the bulk, height and scale which will directly overshadow their client’s property and impact on their established residential amenity; and failure to comply with standards and guidance in the current Dublin City Development Plan 2016-2022.

7.0 **Assessment**

7.1. The issues which arise in relation to this appeal are: appropriate assessment, residential amenity, traffic and parking and character of development, 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**

Overlooking

7.4. Overlooking is of concern to third parties and observers.

7.5. The design includes only two windows at first floor: a bathroom window and a bedroom window, the latter facing north onto the laneway.

7.6. Condition No. 4 of the planning authority’s decision requires that the bathroom window be permanently fitted with opaque glazing, and only be capable of being

opened above at least 1.8m over the finished floor level, therefore there is no possibility of overlooking from that window.

- 7.7. The bedroom window is referred to in condition No. 3 of the planning authority's decision which requires that the front first floor window be amended by being recessed so it does not overlook the adjoining 3rd party yard area to the north for a distance of less than 11m and /or that the window be screened to significantly reduce direct overlooking of the open space to the rear of no 1.
- 7.8. The bedroom window looks towards the laneway and is 8.5m from the boundary of the property to the north. Responding to the grounds of appeal the first party has submitted a proposal to screen that window. In my opinion the proposed screening is acceptable.
- 7.9. Potential overlooking from the roof area has been referred to by one third party. Condition No. 4 of the planning authority's decision requires that no flat roofed area be used or accessed as a roof garden or patio. In my opinion the proposed screening is acceptable.
- 7.10. Overlooking should not be a reason to refuse permission.

Overshadowing

- 7.11. Overshadowing is of concern to third parties and observers.
- 7.12. Potential impact on sunlight was the subject of a shadow study which accompanied the planning application and demonstrated that in accordance with the BRE Publication, 'Site Layout planning for Daylight & Sunlight – a guide to good practice', 2011, the impact on sunlight would not be significant.
- 7.13. The impact on daylight has been analysed in response to the grounds of appeal, using the measures recommended in the BRE Publication. The study demonstrates that due to the design of the building and in particular the setbacks from boundaries of the first floor, the shadow spill from the 2 storey element is onto the laneway, such that there is minimum impact on neighbouring properties and the development achieves the criteria set out in the BRE Publication, and also therefore in the Dublin City Development Plan 2016-2022 within which it is cited.
- 7.14. Overshadowing should not be a reason to refuse permission.

7.15. Traffic and Parking

- 7.16. Traffic and Parking is of concern to third parties and observers. One party raises as an issue that the proposed car parking provision is excessive, as the maximum number of spaces allowable in this parking zone is 1 space per dwelling. It is stated by another party that the amount of parking is insufficient since one space is to be provided for the main premises to the front, whereas most dwellings have two cars.
- 7.17. The additional use of the laneway for access to the proposed development, in the context of its narrow width and its use as a rat run and as a pedestrian and vehicular access to the Church, is considered by third parties to be of traffic safety concern.
- 7.18. The Roads Streets & Traffic Department Road Planning Division of Dublin City Council commented on the application, noting the widening of the existing access from the laneway and the existing and established vehicular entrance from the laneway to the rear of No 70 Clontarf Road. They also noted the other uses of the laneway including for vehicular and pedestrian access to St Anthony's Church positioned at the northern end. As there is an established residential access from the laneway to the site, no objection is raised to the proposal to open the full 7m width of the boundary along the lane to allow 2 no. vehicles to be parked adjacent to each other under an overhanging first floor.
- 7.19. In my opinion the narrow width of the laneway regulates traffic speed and the proposed vehicular access to this development in conjunction with the use of the laneway by other vehicular and pedestrian users is acceptable. I consider the provision of two parking spaces not to be excessive; that the provision of access to the main premises which accords with development plan policy is desirable; and that use of either of the parking spaces by the main premises is acceptable.
- 7.20. Traffic and Parking should not be a reason to refuse permission.

7.21. Character of Development

- 7.22. The character of the development has been raised as an issue by third parties and observers. They consider that the previous Board decision laid down the parameters

for any development on this site. The previous decision was in relation to an appeal for a bungalow style dwelling.

- 7.23. The first party response points to the height difference between the previously permitted development and the proposal, being just 500mm. The first party in supporting the proposal states that it opts for a more contemporary format which does not differ substantially in height and profile. They also refer to precedence in relation to the development which has taken place in mews lanes; which is overwhelmingly 2 storey.
- 7.24. The Development Plan encourages the development of residential mews lanes where appropriate, preferring a unified framework. In this case the first party has demonstrated, in a layout drawing, that development on other sites could occur in harmony with the proposed development. There is nothing to suggest that the proposed development would inhibit the development of other properties backing on the laneway, all of which have potential for mews type development.
- 7.25. The Development Plan states that such development will generally be confined to two-storey buildings, but that three storeys would be acceptable, where the proposed mews building is subordinate in height and scale to the main building.
- 7.26. In this case the proposed development is subordinate in height and scale to the main building and a two storey mews type building has been constructed at the western end of the lane. In my opinion a two storey building is to be preferred to a single storey building for a number of reasons. Sites to the west, which are shorter than the subject site, would be more likely to accommodate a two storey dwelling than similar accommodation provided in a single storey, in addition I am in agreement with the first party in considering that two storey development represents more sustainable use of serviced lands.
- 7.27. I note that St Lawrence Road is a conservation area but the laneway is neither within a conservation area nor visually impacting on a conservation area, for this reason I am satisfied that the proposed two storey dwelling is acceptable.
- 7.28. The Board should note that in the previous appeal PL29N.200338 a single storey dwelling was proposed. It was not as a condition of the Board's permission that the dwelling was single storey.

8.0 Recommendation

- 8.1. In the light of the above assessment, I recommend that planning permission be granted, subject to the following conditions and for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the zoning, Z1 to protect provide and improve residential amenities, it is considered that subject to the attached conditions the proposed provision of a dwelling facing and having access to a public laneway which is suitable for additional development, would increase residential density in an area of relatively low density which has a high level of accessibility and service provision, would not unduly impact on the amenities of adjoining residential properties, would facilitate walking in lieu of car use, would not cause traffic congestion or compromise traffic safety and would accordingly be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 18 day of July 2017 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and sustainable development.

- 3 The first floor bathroom window shall be permanently fitted with opaque glazing, and shall be only capable of being opened above at least 1.8m over the finished floor level.

Reason: In the interest of residential amenity.

- 4 The roof areas shall not be used as outdoor amenity areas.

Reason: In the interest of residential amenity.

- 5 A screen shall be provided at the proposed first floor bedroom window in accordance with the details provided to the Board on the 18 day of July 2017 and subject to further details of materials and colour which shall be agreed in writing with the planning authority prior to commencement.

Reason: In the interest of residential amenity.

- 6 a) Any gates shall open inwards, towards the site rather than towards the laneway.

b) All costs incurred by Dublin City Council, including any repairs to the public road/laneway and services necessary as a result of the development, shall be at the expense of the developer.

c) A maximum of one of the proposed car spaces shall be for the proposed dwelling.

Reason: In the interest of orderly development.

- 7 Site development and building works shall be carried only out between the hours of 07.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

- 8 During the construction and demolition phases, the proposed development shall comply with British Standard 5228 – Noise Control on Construction and open sites Part 1.

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

- 9 Naming and numbering of the proposed dwelling shall be subject to the prior written agreement of the planning authority.

Reason: In the interest of orderly development.

- 10 The developer shall pay to the planning authority a financial contribution of €7,369 (seven thousand three hundred and sixty nine euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The

application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

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

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. Planning Inspector

29th September 2017

Appendices

- 1 Photographs
- 2 Extracts from the Dublin City Development Plan 2016-2022