



An
Bord
Pleanála

Inspector's Report PL29S.248932

| | |
|-------------------------------------|--|
| Development | Construct mews dwelling. |
| Location | Rear of 137 Tritonville Road (Herbert Mews), Sandymount, Dublin 4. |
| Planning Authority | Dublin City Council |
| Planning Authority Reg. Ref. | Ref.2440/17 |
| Applicant(s) | Seamus & Yvonne Reddan |
| Type of Application | Permission |
| Planning Authority Decision | Grant permission |
| Type of Appeal | Third Party x 2 |
| Appellant(s) | Philomena Fyfe Argenta Limited |
| Observer(s) | None |
| Date of Site Inspection | 20 th October 2017 |
| Inspector | Karla Mc Bride |

1.0 Site Location and Description

1.1. The appeal site is located in Sandymount on the S side of Dublin and the surrounding area is predominantly residential in character. The site is located in the rear garden of an existing 2-storey terraced house and it is occupied by a car port with two parking spaces. The site is bound to the N and S by existing residential uses and to the W by Herbert Mews which is a small residential infill development of 6 x 2-storey terraced houses. There are a number of garages located along the laneway and several other mews developments in the surrounding area. Vehicular access to the laneway is off Herbert Road via Herbert Mews.

Photographs and maps in Appendix 1 describe the site & surroundings in detail.

2.0 Proposed Development

The proposed 140sq.m. development on the 125sq.m. site and it would comprise:

- A 3-storey mews house which would be c.15m deep, c.5m wide and between c.6.5m and c.9m high (reduced to 2-storey by way of FI).
- A c.38sq.m. rear garden.
- One off street car parking space with access off Herbert Mews.
- One on-street car parking space for the existing house.
- Associated site works including demolition of a shed/car port.

Accompanying documents:

- Planning Report
- Engineering Report
- Flood Risk Assessment Report.

3.0 Planning Authority Decision

3.1. Decision

Further Information was requested and submitted in relation to: - the number of floors; the depth and relationship to adjacent properties; the adequate provision of private open space for the existing house; legal interest in relation to a right of way over the laneway; and the car parking arrangements of the existing house.

The Planning Authority was satisfied with the applicant's response to the above request and it decided to grant permission subject to 10 standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer recommended a grant of planning permission.

3.2.2. Other Technical Reports

The Roads Division: requested FI in relation to the right of way over the laneway and car parking for the existing house, it was satisfied with the response with no objection to the proposed development subject to compliance with conditions.

The Drainage Division: no objections subject to compliance with conditions.

3.3. Prescribed Bodies

Irish Rail: No objections.

3.4. Third Party Observations

Three submissions received which raised concerns in relation to height, density, overlooking and overshadowing, traffic congestion, and inadequate width of laneway.

4.0 Planning History

2720/05: Permission granted for a rear extension at no.137 Tritonville Road.

5.0 Policy Context

5.1. Architectural Heritage Guidelines for Planning Authorities, 2004

These Guidelines provide a practical guide in relation to Part IV of the 2000 Planning Act which deals with the protection of architectural heritage in respect of the Record of Protected Structures and Architectural Conservation Areas, Declarations and Places of Worship as well as development control advice and detailed guidance notes on conservation principles.

5.2. Dublin City Development Plan, 2016 to 2021

Zoning objective:

The proposed development would be located within an area covered by the “Z2” zoning objective in the Development Plan which seeks to “To protect, provide and/or improve the amenities of residential conservation areas” and the proposed use is listed as permissible.

Mews development standards (s.16.10.16):

- a) Encourage a unified approach and consensus among neighbours.
- b) Retain old coach houses.
- c) Mainly confined to single-family units 2-storey high; subordinate in height & scale; adequate depths and open space provision; and laneway suitable for additional traffic.
- d) Terraces are acceptable but not flat blocks.
- e) New buildings should complement the character of the lane and main building with regard to scale, massing, height, depth, roof treatment and materials, and may be required to incorporate gable-ended pitched roofs.
- f) The amalgamation and subdivision of plots will not be encouraged.
- g) At least one off-street car space per mews building.
- h) New mews development should not inhibit vehicular access.

- i) Minimum carriageway width of 4.8m required (5.5m where no verges or footpaths are provided); all mews laneways are shared surfaces.
- j) Private open space shall be provided for the full width of the site, the depth shall not be less than 7.5m and it should be free of off-street parking.
- k) Sufficient amenity space for mews and main houses in multiple occupation.
- l) The distance between the opposing windows of mews dwellings and of the main houses shall be a minimum of 22m.

5.3. Natural Heritage Designations

The following designated areas are located within a 10km radius of the site:

- South Dublin Bay SAC (Site code: 000210)
- South Dublin Bay & River Tolka Estuary SPA (Site code: 004024)
- South Dublin Bay pNHA (Site code: 000210)

6.0 The Third Party Appeals

6.1. Grounds of Appeal: Philomena Fyfe

- **Traffic** congestion and impact on existing laneway which is c.5m wide and in poor condition, access on to Herbert Road which is very busy, no footpath in contravention of Plan standards, unsafe access to car port, and traffic hazard.
- **Material contravention:** inadequate private open space (s.16.10.3) which requires a minimum of 60sq.m. with adverse impacts on residential amenity.
- **Residential amenity:** overlooking and overshadowing of neighbouring properties including no.137, and loss of sunlight & daylight.
- **Precedent:** ABP has previously refused permission for similar types of development in the vicinity including 120 Tritonville Road (2127755), 127, 129 & 131 Tritonville Road (209011) and 125 Tritonville Road (228978).
- **Loss of trees:** mews would be located close to existing mature trees which have a root spread under the site, visual impact & no tree protection measures proposed.

6.2. Grounds of Appeal: Argenta Limited

- **Argenta** comprises all 6 owners of Herbert Mews which is a 2-storey terrace that dates from the late 1970s located directly to the rear of the appeal site.
- **Existing house:** at no.137 has been extended, the attic has been converted, and the timber awning to be demolished is a car port.
- **Laneway:** the width of the right of way (3.6m) will not afford access to the proposed garage without trespass on the private land at Herbert Mews alongside no.1; garages are recessed to allow access and turning; and the access contravenes Plan standards and sets a precedent for same.
- **Drainage & water:** cannot give effect to the proposed drainage scheme or comply with Condition no.8 without the consent of all owners with a right of way over the lane, the drains at Herbert Mews cannot support further connections; and no water connection details.
- **Mews:** conflicts with development standards minimum carriage width of 4.8m required (5.5m where there are no footpaths) and 3.6m provided.
- **Inadequate information & legal interest:** details of narrow carriageway not indicated on drawings; the carriageway is 5.5m but the applicant's right of way is 3.6m; large concrete bollard outside no.1 omitted; precedent for future development along narrow mews laneway of substandard width.
- **Unified approach:** should be taken to the development of all the rear garden sites with the agreement of all owners.
- **Impact on trees:** proposal will materially affect the root ball of the tree into the rear of no.139; no assessment of impact or tree protection measures; adverse impact on residential amenity as a result of tree loss.
- **Residential amenity:** mono-pitch roof c.1m high than established building height, due to the very high floor to ceiling height on the w side (c.3.44m); the 15m deep building will be overbearing on neighbouring sites.
- **Mews standards:** fails to comply with 7 of the 12 standards (consensus; laneway suitability & open space; height & design; plot subdivision; parking; laneway width; and separation distances).

6.3. Applicant Response

- **Contravention of Plan:** complies with Z2 zoning, policies and standards in relation to plot ratio, site coverage, private open space, car parking and mews development standards.
- **Traffic congestion:** the 5.5m wide laneway complies with standards and there are already 2 car parking spaces on the site which can safely access and turn on the laneway; and traffic conditions along Herbert Road are moderate; and sufficient legal interest in the right of way provided.
- **Residential amenity:** good quality design & finishes; building height is not excessive; adequate setbacks, private open space & rear garden depths provided; no overlooking or overshadowing; and first floor windows have projected louvered screens.
- **Impact on landscape:** trees in the vicinity are not protected with no impacts on roots predicted, although tree protection measures will be put in place.
- **Insufficient legal interest:** Statutory Declarations were submitted by way of FI which note that the lands have been in the legal ownership of the applicants for c.33 years; and the applicant has an on street parking permit.
- **Drainage:** no objection to the proposed works from the Drainage Division.
- **Precedent for refusal:** substantial difference in height, design and scale of the mews developments cited by the appellant when compared to the proposal; permission was granted for a terrace of 3 mews houses on a nearby site under PL29S.232100 in 2008, without injury to amenity or traffic safety; and other similar developments have been permitted in the surrounding area.
- **Planning policy:** complies with national, regional and local planning policy.

6.4. Further correspondence

- No new issues raised.

6.5. Planning Authority Response

- No new issues raised.

7.0 Assessment

The main issues arising in this case are:

- Principle of development
- Design, layout & visual amenity
- Residential amenity
- Access & car parking
- Other issues

7.1. Principle of development

The proposed development would be located within an area zoned Z2 in the Dublin City Development Plan, 2016-2021 which seeks to “To protect, provide and/or improve the amenities of residential conservation areas.” The proposed development would be compatible with the zoning objective for this area subject to compliance with Development Plan other policies and standards.

7.2. Design, layout and visual amenity

The appeal site would occupy the W section of a long rear garden attached to a mid-terrace 2-storey dwelling house which has been extended to the rear. It is flanked on either side by houses of a similar age, scale and design and most of these houses have garages or car ports which open onto a rear laneway. This laneway also serves several other houses including a detached house and a terrace of six 2-storey mews houses. The Herbert Mews terrace is located perpendicular to the appeal site and the E facing elevation is located opposite the existing car port within the appeal site. None of the buildings are Protected Structures and the terrace is not located within an Architectural Conservation Area however the site is located within a Residential Conservation Area (Z2) which seeks to protect, provide and/or improve amenity.

The existing rear garden is over 30m long and between c.5m and c.6.2m wide. The proposed mews house would be located in the W section of the garden and the c.125sq.m site is c.5m wide and c.23.5m long, and the site boundaries are defined by a combination of fences, walls, hedges and mature trees.

Under the original proposal the proposed 3-storey house would be c.15m deep, 5m wide and between 6.5m and 9m high. The proposed house would be set back c.15m from the rear elevation of no.137 and it would be located along the site boundaries to the N and S with the nos.135 and 139 respectively, with a small set back from the W site boundary with the laneway. The house would have a contemporary design with a curved roof and a mix of external finishes comprising brick and timber with windows in the E and W elevations. The ground floor would contain an entrance hall, undercroft car port and a bedroom, the first floor would contain the main living accommodation, and the recessed second floor would contain an attic room. The proposed rear garden would be just under 40sq.m. and the retained rear garden would be c.56sq.m.

Under the Further Information response, the second floor was omitted, the height was reduced to between c. 6.5m and c.7m with a roof slope from W to E. The height reduction is welcome given that the Development Plan standards for mews dwellings requires that the new house be subordinate in scale and height to the existing house. There were no other significant changes to the design and layout and no further amendments were required by way of condition.

Section 16.10.16 of the Development Plan sets out a series of development standards for mews houses, not all of which are relevant to this case. However, I am satisfied that the proposed mews house would broadly comply with the relevant design and layout standards for a new building. The amended scheme would comprise a 2-storey unit that would be subordinate in height and scale to the main house. The contemporary design would complement the character of the main building although it is noted that there is no established character along the laneway. The c.8m long rear garden would occupy the full width of the site with a c.25m separation distance with the existing house at first floor.

Having regard to the foregoing, I am satisfied that the design and layout of the proposed mews house, as amended by way of Further Information, would be acceptable in terms of visual amenity and that it would not detract from the character of the Residential Conservation Area.

7.3. Residential amenity

Proposed house:

Both the original proposal and the proposal as amended by way of Further information, would provide for an acceptable level of residential amenity in relation to room sizes, floor to ceiling heights, orientation, storage, and private amenity space in the form of a c.8m long rear garden which would be just under 40sq.m, whilst the retained garden to the area of no. 137 would be c. 8m long and c.56sq.m. The proposed development would therefore provide for an acceptable level of residential amenity in accordance with National Policy and Development Plan requirements including the new development standards.

Relationship to no.137 Tritonville Road:

The originally proposed house would be c.15m deep and between c.6.5m and c.9m high. The overall height was reduced from 3 to 2-storey, and to between c.6.5m and 7m by way of the Further Information response. The E facing elevation would contain extensive glazing at ground and first floor levels although the first floor window would be screened by a louvre structure to minimise overlooking of the adjoining sites.

The proposed structure would be separated from the rear single storey section and main 2-storey elevation of the existing house at no.137 by a distance of c.16m and c.25m respectively at ground and first floor levels. However, having regard to the proposed separation distances, which exceed the 22m minimum requirement for directly opposing first floor windows, I am satisfied that the proposed house would not overlook the existing house to any significant extent and there would be no loss of privacy. The proposed house would be located to the W of the existing house which would experience some additional overshadowing in the later part of the day, although the impact would not be significant. Having regard to the amended height and modified roof design, the proposed house would not be overbearing or visually obtrusive.

Relationship to nos.135 and 139 Tritonville Road:

The proposed 2-storey mews house (as amended) would extend along the neighbouring site boundaries with the rear gardens of no.135 and no.139 Tritonville Road to the N and S. There would be no windows in the proposed side elevations and the neighbouring sites would not be directly overlooked, however the proposed first floor louvered window in the E facing elevation has the potential for overlooking.

No.135 Tritonville Road: There would be a c.16m diagonal separation to the rear single storey section of no.135 and a c.22m diagonal separation to the 2-storey rear elevation which is considered acceptable, particularly given that the first floor rear windows would not be directly opposing. The proposed house would be located to the S of the rear garden at no.135 which would experience some additional overshadowing in the middle part of the day. However, the neighbouring house would not be overshadowed to any significant extent because of separation distances proposed. Having regard to the amended height and modified roof design, the proposed house would not be overbearing or visually obtrusive.

No.139 Tritonville Road: There would be a c.21m diagonal separation to the 2-storey rear elevation which is considered acceptable, particularly given that the first floor rear windows would not be directly opposing. Having regard to the orientation of the proposed house to the N of the neighbouring rear garden at no.139, the adjoining site would not be overshadowed. Having regard to the amended height and modified roof design, the proposed house would not be overbearing or visually obtrusive.

Having regard to all of the foregoing, I am satisfied that the proposed house would not have a significant adverse impact on the residential amenities of the neighbouring house to the N and S at nos.135 and 139 Tritonville Road.

Relationship to Herbert Mews: The proposed house would be located opposite the E facing gable end of the 2-storey Herbert Mews terrace. The terrace does not contain any windows in the side elevation or amenity areas in the vicinity, and the existing terrace would not be overlooked or overshadowed to any significant extent.

7.4. Access and car parking

The applicant has addressed the concerns raised by the Roads and Traffic Division in relation to legal interest to a right of way over the mews laneway and the existing house at no.137 has a permit for on street parking along Tritonville Road.

The appellants concern in relation to the width of the laneway (c.5.5m) compared to the width of the applicant's purported right of way over the laneway (c.3.6m) are noted, as are their continued concerns in relation to a legal interest to a right of way.

The overall laneway, irrespective of ownership is of an adequate width to accommodate mews development. Almost all off the houses along this section of Tritonville Road have garages, car ports or gated entrances to the rear of their properties off Herbert Mews. The appeal site already contains two off street car parking which can access the site without giving rise to a traffic hazard along the laneway, and the number of spaces would be reduced to one under the current proposal. In terms of setting a precedent for similar future mews developments with vehicular access on to the laneway, it is further noted that most of the houses already use the laneway to access their rear car parking spaces. The applicant's Statutory Declaration which was submitted by way of Further Information, states that they have "enjoyed an unimpeded and unrestricted right of vehicular and pedestrian access to the rear of no.137 Tritonville Road over Herbert Lane" since 1983.

Notwithstanding the concerns raised, I am satisfied that the laneway is physically capable of accommodating the proposed development without giving rise to a traffic hazard or setting an undesirable precedent. Any outstanding concerns in relation to legal interest of are a civil matter for another jurisdiction.

The proposed development would not give rise to an unacceptable level of traffic generation or congestion, the vehicular access arrangements off Herbert Mews via Herbert Road are acceptable, and the proposal would not give rise to a traffic hazard or endanger the safety of other road users. Adequate off street car parking has been provided, the proposal would not give rise to overspill car parking and the site is located in close proximity to several Dublin Bus routes and a DART station.

7.5. Other issues

Appropriate assessment: Having regard to the long established built up character of the area and the separation distance with the nearest European site, the proposed development would not affect any SACs or SPAs in the wider area.

Environmental services: The arrangements are considered acceptable subject to compliance with the requirements of Irish Water and the planning authority.

Financial contributions: Compliance with the Council's S.48 Scheme is required.

Flood risk: The proposal would not give rise to any additional flood risk, subject to compliance with the requirements of Irish Water and the planning authority.

Precedent: The cases cited by the applicant and appellant are noted.

Trees: The applicant should ensure that all existing mature trees (including their roots) in the vicinity of the site are adequately protected during construction works.

8.0 Recommendation

Arising from my assessment of this appeal case I recommend that planning permission should be granted for the proposed development for the reasons and considerations set down below and subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2016 to 2021, and to the nature, and scale of the proposed development, it is considered that subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity or give rise to a traffic hazard. The proposed development would, therefore, 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, 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. For the avoidance of doubt the development shall be constructed in accordance with plans and particulars that were received by the planning authority on the 9th day of June 2017, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity

3. Adequate tree protection measures should be put in place during the construction works to ensure that the neighbouring trees are not damaged.

Reason: In the interest of biodiversity and visual amenity.

4. The following Roads and Traffic Planning Division requirements shall be complied with:

(a) The carport shall not have outward opening doors.

(b) The car parking space for the mews dwelling shall be kept free from obstruction at all times for the use by the occupier of the dwelling and shall not thereafter be used for any other purpose other than for the parking of vehicles.

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

(d) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason: In the interest of the proper planning and sustainable development of the area.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate.

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

6. The site development and construction works shall be carried out such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

7. The site works and building works required to implement the development shall only be carried out between 7.00 hours and 18.00 hours, Monday to Friday and between 08.00hours and 14.00 hours on Saturdays and not at all on Sundays or Bank Holidays.

Reason: To safeguard the residential amenities of adjacent dwellings.

8. The developer shall pay to the planning authority the sum of twelve thousand, and ninety-six euro (E12, 096.00) as a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine.

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

Karla Mc Bride
Planning Inspector

27th October 2017