



An
Bord
Pleanála

Inspector's Report ABP-300142-17

DEVELOPMENT:

Demolition of garage, party wall and boundary wall, construction of 3 storey building consisting of basement and mews house with off-street car parking and ancillary site works (protected structure)

Location

36 Raglan Lane, Ballsbridge,
Dublin 4

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

3069/17

Applicant(s)

Michael and Ann Kevany

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

John Meade and Marie-Therese
Rainey

Observer(s)

Pembroke Road Association

Date of Site Inspection

23/02/2018

Inspector

Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site is located on the eastern side of Raglan Lane, a mews laneway running perpendicular to Wellington Road in the south Dublin suburb of Ballsbridge. A number of mews plots on both sides of the lane have been developed at different times and to different architectural styles. Some on street car-parking is provided on the eastern side of the Lane.
- 1.1.2. Currently on site, through a wooden double door is a single storey garage of 36sq.m. in a state of disrepair. A pedestrian adjoining the original boundary wall leads to an overgrown area that is bound to the north and south by the gable elevations of the adjoining mews and to the west by the boundary wall with the Appellants property at 36 Wellington Road.
- 1.1.3. Photographs from the site visits are appended to this report.

2.0 Proposed Development

- 2.1.1. Permission was sought for the demolition of a garage (36.5sq.m.) and associated brick party wall and later limestone boundary wall to the gable of no. 34 Raglan Lane and construction of a two storey with basement dwelling (reduced to 259.8sq.m. after further information) with one off street car parking space, on a site of 0.0224ha. Plot ratio of 1:1 and site coverage of 48%.
- 2.1.2. The application was accompanied by the following:
 - Planning Report
 - Architectural Impact Statement
 - Construction Management Plan
 - Drainage Summary Report
 - Landscaping plan

3.0 Reports on file following submission of Application

3.1. Third Party Observations

- 3.1.1. A number of objections to the proposed development were submitted to the Planning Authority. The grounds of objection are similar to those raised in the third party appeal.

3.2. **Planning Authority Reports**

3.2.1. **Roads Traffic Department:** No objection subject to conditions

3.2.2. **Drainage Division:** No objection subject to conditions

3.2.3. **Planning Report:** site is located in Flood Zone 3, a residential conservation area and was previously part of the curtilage of a protected structure. Precedent for basements in Z2 zones at 67 Pembroke Lane (3334/15 refers) and 16b Raglan Lane (3982/14). Proposal to extend at ground floor to the rear boundary would normally not be acceptable however neighbouring property has a two storey extension to this side which may compromise the quality of the space. Proposal to screen first floor terrace is acceptable. Submitted shadow analysis shows that proposed ground floor extension to the front would have a minor impact. The proposed utility and golf space should be pulled in. Proposed first floor dining window of 2.8m x 2.5m would be visually dominant and will allow overlooking. Applicant should be requested to review this. Details of materials for lift shaft at roof level should be requested.

4.0 **Further Information**

4.1. The applicant was requested to provide the following details:

1. Review first floor dining window
2. Review the extent of the ground floor front extension
3. Clarify material for stairwell

4.2. The applicant responded to the FI request with the following details:

1. Height of dining room window at rear of property reduced with window cill 800mm off the first floor. Applicant notes the extensions to the rear of the protected structure no. 36 Raglan Road which causes negative impacts to the rear.
2. Ground floor utility room and golf store removed and replaced by private open space. First floor flat roof reduced in height.
3. Proposed rear elevation drawing shows solid wall to the rear of the stairwell clad with a timber panel to match the design of the fence at the rear of the private open space facing no. 36 Raglan Road. Applicant requests that option to render or use brick be conditioned.

4.3. **Planning Reports following submission of AI**

- 4.3.1. Drainage: No objection
- 4.3.2. Planning Report: Revised proposal addresses the concerns of the Planning Authority. Proposed dwelling is acceptable. Recommendation to grant.

5.0 **Planning Authority Decision**

5.1. **Decision**

- 5.1.1. On the 12th October 2017 the Planning Authority issued a notification of intention to **GRANT** permission subject to 11 no. conditions. Conditions of note
 - 6: mews car parking space to be kept free from obstruction and used by occupier of dwelling
 - 7: access to sedum roof shall be for maintenance purposes only
 - 8: drainage requirements for proposed basement

6.0 **Planning History**

- 6.1.1. None recorded

7.0 **Policy Context**

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

- 7.1.1. The subject site is located in an area zoned Z2 with an objective '*to protect and/or improve the amenities of residential conservation areas*'. The site is located at the rear of No 36 Wellington Road, which is listed as a Protected Structure (House) in Volume 3 of the plan.
- 7.1.2. The sections of the development plan most relevant to the proposed development are section 16.10.16 (Mews Standards) and section 16.10.15 (Basements).

8.0 **The Appeal**

- 8.1.1. The third party appeal was submitted by a Planning Consultant on behalf of John Meade and Marie-Therese Rainey of no. 36 Wellington Road, the property to the west of the subject site. The grounds of the appeal can be summarised as follows:
 - Having regard to the decision of Dublin City Council to refuse permission for development at 32 Wellington Road, the proposed terrace at the rear of the

proposed mews is unacceptable and will result in significant negative impact on the Appellant's residential amenity.

- The Board refused permission for outline planning permission for 2 no. two storey mews with access from Raglan Lane. Permission was refused for a mews on Pembroke Lane, 10 Heytesbury Lane, 5 Morehampton Road and 11 Prices Lane.
- In terms of compliance with the development plan the proposed development is unsympathetic to the character of the area (section 16.10.10, infill housing), will not result in improvements to the area (Z2 zoning objective) and is bad architectural design (policy QH22).
- The proposed development will result in substantial loss of residential amenity, overlooking of 36 Wellington Road and 34 & 38 Raglan Lane and therefore be contrary to the policy on Backland development (section 16.10.8).
- In terms of the policy on mews development, it is submitted that the proposed development is not a mews. The 12 standards of section 16.10.16 have not been achieved in all cases. The carriage way width of 5.5m and the required 7.5m private open space cannot be achieved.
- The proposed 42sq.m. open space is below the required 60sq.m. 22m separation distance has not been achieved and overlooking will occur.
- The proposed three storey development does not have regard to the Protected Structure on Wellington Road or the Architectural Conservation Area. It contradicts policy CHC4 of the development plan. It is contrary to section 5.9(i) of the Sustainable Residential Development in Urban Areas Guidelines and the accompanying Urban Design Manual as it will seriously detract from the residential amenity of the wider area.
- The proposed development is excessive in scale and unsuitable for the site. The 19sq.m. terrace and window at first floor level will overlook adjacent properties. It is submitted that the images submitted by the Applicant are misleading as they suggest that trees at the rear of the Appellants property will screen the proposed development. In reality the trees are only slightly

higher than the boundary wall. Noise disturbance will arise from the proposed terrace.

- It is submitted that the roof will be used for recreational purposes, as a walkway and a stairwell are proposed. This would result in a four storey dwelling.
- The proposed dwelling is excessive, overbearing, visually obtrusive and would overwhelm the appellants dwelling.
- The proposed basement pool could cause issue for the water table.
- The proposed 0.45m high wall on top of the boundary wall will contribute to the serious negative impacts caused by the proposed development.
- The shadow analysis did not include the rear view of the proposed mews dwelling. The proposed development will cause a high level of overshadowing of neighbouring properties. Natural light to the rear of the appellants dwelling will be lost and mid-morning / afternoon sun to no.s 34 and 38 Raglan Lane will be affected. The Planning Authority officer noted that the location of a kitchen and dining room at first floor would not normally be appropriate.
- The visual impact of the proposed dwelling is unacceptable – the dwelling is over scaled, bulky and intrusive. This is contrary to the zoning objective.
- The plot ratio of 1:18 shows over development of a narrow plot. A structural impact assessment was not undertaken. Significant disturbance will arise.
- The separation distance between the Appellants extension and the proposed mews shows the over development of the site.
- No justification for not achieving the required 7.5m depth of open space has been presented. The presence of a two storey extension at no. 38 does not change the impact of the proposed development on the Appellants. The Board has recently refused permission for a first-floor terrace at 32 Wellington Road (PL29S.248212). The proposed opaque screening will not ameliorate this impact.
- The proposed basement is unnecessary and contravenes section 16.10.15 of the development plan. It will set an unwelcome precedent, will necessitate

deep excavation and piling and will impact the stability of the Appellants dwelling.

- The proposed development was not adequately described in the public notices.
- The Board is requested to refuse permission.

8.2. **Planning Authority Response**

8.2.1. The Planning Authority indicated that they had no further comment to make, directing the Board to the planner's report on file.

8.3. **Response of First Party to Appeal**

8.3.1. The applicant has responded to the third party appeal as follows:

- Site was subdivided by a solid limestone wall in the 1990's. Deeds of both properties refer to future development at 36 Raglan lane, development of a mews was implicit and was known by the Appellants when they bought the property.
- The proposed mews will improve the area and remove a vacant site. The Planning Officer recognised the "mews laneway" nature of Raglan Lane.
- Infill development policy of the development plan: Rear garden depth cannot be increased whilst respecting the building line. This was accepted by the Council. The proposed development has regard to the character of the street in terms of building lines, proportion, heights, parapet levels and materials. It complies with minimum room sizes and has a safe access and egress.
- Design & Materials: Style and character of Raglan Lane is evolving. New mews developments at 44,16 and 1 have high architectural quality. The proposed development is a vibrant modern design.
- The proposed development is two storey from street level with a basement that will not be visible. The flat roof will not be usable and does not form part of the open space.
- Precedent: The six mews developments the Appellant refers to are between 18 and 16 years old – during which the development plan has changed three

times. This planning history is irrelevant. The example at no. 32 Wellington Road is not comparable as the proposed first floor terrace and opaque screen over shadow the proposed rear garden and not the appellants property. No. 36 Wellington Road is already overshadowed by the rear two storey pitched roof extension at no. 38 Raglan Road. The mews developments at 16 Wellington Road, 1 Raglan Lane and 10 Heytesbury Lane have all been completed and therefore are not relevant. The mews to the rear of 5 Morehampton Road was refused as it faced an apartment block and the distance between first floor windows was 15.6m. The proposed development has 27m separation distance from the appellants first floor window and 20.4m from the extension on the ground floor.

- Zoning Z2: there is no access to the rear of 36 Wellington Road. The subject site has been vacant for over 20 years. The proposed mews is no higher than neighbouring dwellings and respects front and rear building lines. No. 1 and 16b Raglan lane have similar flat roofs and large corner windows to that proposed.
- Backland Development: the proposed development complies with section 16.10.8 of the development plan as it represents an excellent opportunity to develop a vacant site. The rear window cill has been raised to 800mm, matching that of the neighbouring properties that also overlook the rear garden of Wellington Road. The 1.8m screen has been moved back to 1.7m from the rear boundary wall. Living space on the ground floor was discounted due to the overshadowing cause by the gable of the extension of no. 38 Raglan Lane. First floor living is not uncommon in urban areas.
- Mews Development: The proposed development complies with section 16.10.16 of the development plan. The proposed mews is 6.7m to the boundary rear party wall, 20.5m from the extension to the appellants dwelling and 28m from the original rear elevation. The rear building line with no. 34 Raglan lane is retained
- Private Open Space: 75sq.m. private open space is provided in the form of 37sq.m. front walled garden and 38sq.m. rear private open space.

- Conservation Area: It is a conservation rule to design for the time. Modern buildings recently built have contributed positively to the laneway.
- The proposed development is in accordance with the 2009 Sustainable Residential Development in Urban Areas guidelines as it redevelops a vacant site. The proposed development will enhance the area and add to neighbourhood amenity value.
- The proposed development is in accordance with the zoning objective. There will be no loss of residential amenity or privacy. Noise from the proposed first floor terrace will be mitigated by planting on the terrace and will be no different to ground level noise. The 1.8m high fence is 2m from the FFL so no overlooking will occur. The proposed flat roof will have solar panels and a sedum roof, neither of which can be walked on. There is no intention to use the roof as amenity due to the danger involved.
- The two storey dwelling has a small maintenance stairs at roof level which is 33m from the appellants property. There is no opaque glazing to the rear of the terrace, only a solid fence. See drawing 1633-PL-0020 Revision 4.
- The Risk Analysis undertaken concluded that there was “unlikely to be a flood risk to the site or any downstream areas as a consequence of the proposed dwelling”.
- The proposed 0.45 fence on top of the boundary wall can be removed if requested.
- Shadow diagrams submitted as additional information show that no overshadowing will occur and that the appellants dwelling is already overshadowed by no. 38 Raglan Lane.
- The scale and massing of the proposed development is no different to the other mews developments.
- The basement is not right up to the boundary with no. 38, it is 900mm from both sides and 4.9m from the boundary with no. 36 Wellington Road. Site coverage at 50% is not ‘extremely high’. A construction management plan has been submitted.

- The proposed basement (78sq.m.) is not 100% of the footprint of the two upper floors (182sq.m.).
- The public notice complied with statutory requirements.
- The proposed development is in keeping with its neighbours. The Board is requested to grant permission.
- Submitted with the appeal response: Details / images of first floor balconies, Architectural impact statement, site photos, Landscape Plan, Drainage Summary Report, Construction Management Plan, copies of drawings.

8.4. **Observation**

8.4.1. The grounds of the observation submitted by the Pembroke Road Association can be summarised as follows:

- The proposed development contravenes the mews development policy of the Planning Authority. The proposed basement is over 100% of the footprint of the two upper floors. This is contrary to policy 16.10.15.
- The original mews building on site was used for the purposes of the Protected Structure and therefore the curtilage of the site should include the subject site. The proposed development contravenes section 11.1.5.3 of the development plan as it has an adverse impact on the setting of a protected structure.
- The water table around Raglan Lane is high due to the Dodder Flood plain and many underground rivers and tributaries. Office parking in the curtilage of protected structures is no longer granted permission by the Council. Basements should also be prohibited. Basements were never part of the plan for Wellington Road due to the risk of flooding. The Flood Risk Assessment submitted by the Applicant is insufficient. A hydrodynamic study is required.
- The Z2 zoning objective is not respected.
- The provision of only one car parking space will add to the congestion on Raglan Lane.

9.0 Assessment

9.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development including the various submissions from the applicant, the planning authority and the Observer. I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Impact on Residential Amenity
- Visual Impact
- Overshadowing
- Basement
- Other

9.2. Principle of Development

9.2.1. The subject site is located in an area zoned for residential development, on a laneway that has a number of mews developments and a number more under construction. The mews site has been separated from the main dwelling at no. 36 Wellington Road for a considerable time. Subject to compliance with all other planning considerations, the proposed development is acceptable in principle.

9.3. Impact on Residential Amenity

- 9.3.1. The appellant states that the excessive size, scale and bulk of the proposed development will negatively impact the residential amenity of their dwelling to 36 Wellington Road.
- 9.3.2. The proposed mews dwelling has living accommodation on the first floor, including a terrace of 15sq.m. The applicant stated that this was proposed in order to avoid the overshadowing effect created by the two storey extension at no. 38 Raglan Road.
- 9.3.3. The principle of mews development along the lane has been well established and must be expected on this vacant site. The appellant states that the height of the wall between the two sites is not sufficient to ameliorate any negative impacts. I note the proposal to raise the wall by 0.45m and the presence of a tree line at the rear of the Appellants property. I consider this sufficient to avoid the normal noise and other

impacts from a residential property in an urban area, particularly one that is zoned for residential development. At ground level I am satisfied that there will be no impact on the residential amenity of the appellant's property.

- 9.3.4. At first floor, a terrace of 15sq.m. is proposed leading from the living / dining space. A solid timber fence of 1.8m is proposed at the eastern boundary. The distance between this fence and the two storey extension to the rear of the appellants property is 16m. The standard of 22m referred to by the Appellants and the Observer is for directly opposing first floor windows. This does not apply to the proposed terrace where a solid timber fence is proposed. The distance between the window on the rear elevation of the proposed mews and the extension of the Appellants dwelling is 21m. This is considered acceptable given the screening at the boundary between the two sites. Nonetheless I note that the mews development policy allows for flexibility where site constraints exist. In those cases, "innovative and high quality design" is required. I am satisfied that such circumstances exist at the subject site, where the building line established by neighbouring mews houses has been respected and where a high quality innovative design has been proposed. The provision of open space at first floor should not impact the residential amenity of the appellants or other adjoining properties.
- 9.3.5. It is proposed to erect a 1.8m high opaque screen on the northern boundary of this terrace. This is sufficient to prevent overlooking of the mews property to the north: 34 Raglan Lane.
- 9.3.6. I note the applicant statement that no access other than maintenance shall be facilitated at roof level. Should the Board decide to grant permission a condition prohibiting access to the roof for anything other than maintenance should be attached.

9.4. **Visual Impact**

- 9.4.1. The visual impact of the proposed mews dwelling is acceptable. The height of the structure at 15m is considerably lower than the adjoining dwellings with their traditional pitched roofs (17m and 16m). The proposed mews is not a three storey dwelling in the normal sense of the word as only two storeys with a flat roof will only be visible from the street when the proposed electric gate is open. The design of the

proposed dwelling is acceptable and in keeping with the evolving style character of the lane.

9.5. **Overshadowing**

- 9.5.1. The shadow analysis submitted with the application demonstrated that no overshadowing would occur to the front (east) of the proposed mews. In response to the third party appeal a shadow analysis was submitted showing the impact of the proposed development to the rear of the proposed mews. Drawing no. 1633-PL-1002 shows that there will be no impact on the appellants property in March and June. Drawing no. 1633-PL-1003 shows that the impact from the proposed mews in September and December will be the same as is existing. I am satisfied that no overshadowing of the appellants property and garden will occur.

9.6. **Basement**

- 9.6.1. Section 16.10.15 of the development plan notes the possibility of basements flooding and states that generally they will be discouraged in Conservation Areas and adjacent to Protected Structures. Policy SI13 states that they will not be permitted in Zone A or B flood zones. The subject site (Flood Zone C) has no recorded flood events according to the OPW floodmaps info.
- 9.6.2. In terms of compliance with section 16.10.15 of the development plan, only one of the criteria is not met, namely that the proposed basement (78sq.m.) is not half that of the proposed garden space (75sq.m. to the rear and 37sq.m. to the front). Section 16.10.15 recommends that a basement development should generally not extend to more than 50% of the amenity garden space. I am satisfied that the exceedance is not material however. I note that the Drainage Division of DCC have no objection to the proposed basement and swimming pool subject to conditions. Given the measures proposed in the Construction Management Plan (section 1.3 and section 6.1), I am satisfied that the proposed basement is acceptable.

9.7. **Other**

- 9.7.1. **Open Space:** The Planning Authority's policy on open space for mews development requires it to be provided to the rear, to be landscaped and to be no less than 7.5m in depth. Flexibility exists for breaching this standard where it is demonstrably impractical. I am satisfied that such a case exists for the proposed development where the building line established by the neighbouring mews has been respected.

- 9.7.2. **Access:** Development Plan policy on mews development requires an access lane of 4.8m in width, or 5.5 where no verges or footpaths are provided. No verges or footpaths are provided on Raglan Lane which is a long established mews laneway of 6m in width.
- 9.7.3. **Curtilage:** The subject site has been separated from no. 36 Wellington Road physically and legally for approx. 20 years. The site has lain vacant for that period. I note section 13.1.4 of the Architectural Heritage Guidelines for Planning Authority's which states that the extent of a curtilage needs to be determined on a case-by case basis and should be addressed by the Planning Authority prior to the inclusion of the structure on the RPS. Volume three of the DCC development plan refers to 36 Wellington Road (RPS ref. 8412) as "house" with no mention of mews or any attendant grounds.
- 9.7.4. In terms of section 13.1.5 of the Guidelines, there is no functional link between the sites at the moment but a former structure on site was likely to provide a coach house / outhouse function in the past. No detail has been provided about the existing wooden garage. I am satisfied that the historical connection has long been severed and that the subject site no longer qualifies as being part of the curtilage of the protected structure.

10.0 **Appropriate Assessment**

- 10.1.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area and proximity to the nearest European site, no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site

11.0 **Recommendation**

- 11.1. I recommend permission be GRANTED subject to the following conditions

12.0 **Reasons and Considerations**

Having regard to the pattern of development in the vicinity and the nature, scale and design of the proposed mews house, it is considered that the proposed development, subject to compliance with the conditions set out below, would not

seriously injure the residential amenities of neighbouring property, or of future occupants of the new house, would not unduly detract from the setting of neighbouring protected structures, would represent an appropriate form of mews development that would be compatible with its surroundings, and would be acceptable in terms of pedestrian and vehicular safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

13.0 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 14th day of September 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. Access to the roof shall be restricted to maintenance requirements only.

Reason: In the interest of clarifying the extent of the proposed development

3. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwelling without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwelling and to protect the residential amenities of adjoining properties

4. Details of the external finishes of the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. The existing front boundary wall onto Raglan Lane shall be retained, except at the location of the vehicular and pedestrian accesses. Any damage to the wall during construction shall be repaired, using stone of the same colour and texture.

Reason: In the interest of visual amenity.

6. 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: To ensure adequate servicing of the development, and to prevent pollution.

7. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours 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 residential amenities of property in the vicinity.

9. The developer shall pay to the planning authority 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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme.

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.

Gillian Kane

Senior Planning Inspector

25 February 2018