



An  
Bord  
Pleanála

## Inspector's Report ABP-300582-18

### Development

The development will consist of the demolition of the 1970's rear kitchen extension to the main house (17 sq.m) and of an existing garage/shed (52.3 sq.m) to the rear of Woods Way, and the construction of a new single storey, detached, two bedroom, mews dwelling (96.3 sq.m) with basement level on Woods Way with off-street parking, associated local remodelling of part of the ground floor return of main house and associated drainage modifications and landscaping.

### Location

4, Mount Eden Road, Donnybrook,  
Dublin 4

### Planning Authority

Dublin City Council South (Planning  
Decisions)

### Planning Authority Reg. Ref.

4000/17

### Applicant(s)

Anne Donohue

### Type of Application

Permission.

### Planning Authority Decision

Refuse Permission

<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Anne Donohue.
<b>Observer(s)</b>	Niall and Joan Loftus. Kelly Family
<b>Date of Site Inspection</b>	9 <sup>th</sup> April 2018.
<b>Inspector</b>	Bríd Maxwell

## 1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 380m<sup>2</sup> and refers to an established dwelling site No 4 Mount Eden Road, Donnybrook within a well-established suburban area characterised by substantial period dwellings in detached and semi-detached layouts. The site is occupied by a two storey red brick with double bay window semi-detached property with short walled and railing defined front garden fronting onto Mount Eden Road and its rear garden opening onto a rear laneway Woods Way. A single storey ridged roofed garage / shed occupies the rear boundary of the site and flat / mono pitched roof sheds/garages on the adjoining properties. Access is one-way outward on Belmont Avenue with two-way access on the south side of Mount Eden Road. Carriageway width is restricted to 3.8m / 4m at the junction but is wider c.7m to the rear of 2-10 Mount Eden Road.
- 1.2. Woods Way predominantly provides access to the rear of residential properties while there are also a number of mixed uses a restaurant (The Courtyard) and an Office Premises (The Warehouse). There is a contemporary dwelling of recent construction (formerly a light industrial office use) located directly opposite to the southeast of the appeal site. <sup>1</sup> To the rear of 24 Mount Eden Road and fronting onto the western side of the access to Woods Way is a two storey contemporary mews type dwelling with curved frontage at laneway junction.<sup>2</sup> A further relatively recent infill of two storey dwelling to the rear of No 26 Mount Eden Road fronts onto Woods Way<sup>3</sup>. Photographs appended to the report further illustrate the character of the site and vicinity.
- 1.3. The site lies within the Belmont Avenue Mount Eden Road and Environs Architectural Conservation Area.

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<sup>1</sup> WEB1175/15 Permission for partial demolition and change of use from light industrial / office to part two storey part single storey dwelling with basement.

<sup>2</sup> 225855 Rear of No 24 Mount Eden Road. Permission granted on appeal to demolish garage to rear and erect new house.

<sup>3</sup> 245074 Rear of No 26 Mount Eden Road. Permission upheld on appeal to the Board for the demolition of an existing single storey timber building and the construction of a two storey, one-bedroom house, garage and all associated site works

## 2.0 Proposed Development

- 2.1. The application as set out involves permission for the demolition of the 1970s rear kitchen extension to the main house (17 sq.m) and of an existing garage / shed (52.3 sq.m) to the rear of Woods Way and the construction of a new single storey, detached, two bedroom, mews dwelling (96.3 sq.m) with basement level on Woods Way with off street parking, associated local remodelling of part of the ground floor return of main house and associated drainage modifications and landscaping.

## 3.0 Planning Authority Decision

### 3.1. Decision

By order dated 29/11/2017 Dublin City Council decided to refuse permission for the following reason:

*“The proposal to site a mews type dwelling in the rear garden of No 4 Mount Eden Road which is located in an Architectural Conservation Area is considered by reason of its failure to provide for adequate private open space in addition to proposing sub-standard bedroom basement accommodation is considered to be contrary to the Z2 Conservation zoning objective of the site whereby the aim is “to protect and / or improve the amenities of residential conservation areas” and as such the proposal would set an undesirable precedent and would seriously injure the amenity of property in the vicinity and as such is contrary to the proper planning and sustainable development of the area.”*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

Planner’s report indicates no objection to the proposed demolition works however the development plan recommends against basements in conservation areas and concern is expressed regarding light and ventilation. Private open space is

considered to be substandard and the development will have a negative impact on adjacent structures. Refusal recommended.

### 3.2.2. Other Technical Reports

Drainage Division report indicates no objection subject to standard conditions.

## 3.3. Third Party Observations

3.3.1 Submission from neighbouring residents John and Nora Kelly, 6 Mount Eden Road express concern that the proposal would result in overdevelopment of the site dominating gardens of numbers 2, 4 and 6. Proposal will give rise to traffic congestion. The design is not in character with the Belmont Avenue / Mount Eden Road & Environs Architectural Conservation Area. Inaccuracies on drawings are detailed and it is noted that there is no precedent for mews development.

3.3.2 Submission by Dr Diarmuid Ó Gráda, Planning Consultant on behalf of Niall & Joan Loftus, No 2 Mount Eden Road. Scale, bulk and external finishes render the proposed development unsuitable for this location. Proposal would degrade the heritage setting and is contrary to Z2 zoning. Planning history and contradictions in drawings are noted. Proposal is contrary to mews dwellings policy in terms of isolated application and poor quality private open space will give rise to significant loss of amenity and traffic and set an undesirable precedent.

## 4.0 Planning History

**PL5490/07** Similar proposal sought permission for a new 1 bedroom 2 storey mews house with balcony to laneway and carport to rear involving the demolition of garage and store and single storey rear kitchen extension. Refused on grounds of undesirable precedent on substandard laneway. Development out of character and injurious to the amenities of property in the vicinity.

**1789/07** Refusal of permission for a 1 bedroom 2 storey mews house with balcony to laneway and car port to the rear. Reasons for refusal related to the scale of the proposed development, proximity to adjoining residential properties together with the increased traffic would result in an excessive and obtrusive form of development in

the vicinity, which would set an undesirable precedent for similar development in the area.

**PL212670 2179/05** Decision of Dublin City Council to grant permission overturned on appeal. Reason for refusal was as follows:

*“Having regard to the restricted size of the site, the scale of the proposed development and to the close proximity to adjoining residential properties together with the increased traffic which would be generated by the proposed development on a substandard laneway, it is considered that the proposed development would result in an excessive and obtrusive form of development which would be out of character with the pattern of development in the vicinity, which would set an undesirable precedent for similar development and which would seriously injure the amenities of the area and of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.”*

*Sites in the vicinity.*

**WEB11785/15** Permission granted 24 July 2015 for partial demolition and change of use from light industrial / office to part two storey part single storey dwelling with basement.

**PL29S246508** Permission granted for medial surgery building and services with access gate at first floor to revert to residential use. Access from Mount Eden Road.

**PL29S244771** Refusal of permission for construction of general practice medical surgery with all associated patient and staff facilities in a new detached single storey building

**PL29S245074** Permission granted for the demolition of an existing single storey timber building and the construction of a two storey, one-bedroom house, garage and all associated site works. Rear of No 26 Mount Eden Road. This followed previous decision PL29S243765 Refusal of permission for the demolition of an existing single storey timber building and the construction of a 2-storey, 2-bedroom dwelling house with converted attic space, garage and a screened raised garden at first floor level together with all ancillary works.

**3700/17** Relates to 8 Mount Eden Road. Permission for demolition of rear sheds and garage and extension and alterations to the existing dwelling.

**2188/12** Permission for extension and alterations to 10 Mount Eden Road.

**225855** Rear of No 24 Mount Eden Road. Permission granted on appeal to demolish garage to rear and erect new house.

**245074** Rear of No 26 Mount Eden Road. Permission upheld on appeal to the Board for the demolition of an existing single storey timber building and the construction of a two storey, one-bedroom house, garage and all associated site works

## 5.0 Policy Context

### 5.1. Development Plan

The Dublin City Council Development Plan 2016-2022 refers.

The site is zoned Z2 the objective is *“to protect and/or improve the amenities of residential conservation areas.”*

The site is within the Belmont Avenue / Mount Eden Road & Environs Architectural Conservation Area. January 2016. The ACA policy is *“To seek to preserve, protect and enhance the architectural quality, character and setting of the eighteenth, nineteenth and early twentieth century building characteristics within the ACA and to ensure that any changes complement and add to its character.”*

Policy CHC4 *“To protect the special interest and character of all of Dublin’s Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.”*

It is the Policy of the Council QH8: To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

Section 16.10.16 specifically relates to Mews Dwellings and includes the following relevant provisions.

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

(c) Development will generally be confined to two-storey buildings. In certain circumstances, three storey mews developments incorporating apartments will be acceptable, where the proposed mews building is subordinate in height and scale to the main building.

(e) New buildings should complement the character of both the mews lane and main building with regard to scale, massing, height, building depth, roof treatment and materials. The design of such proposals should represent an innovative architectural response to the site and should be informed by established building lines and plot width. Depending on the context of the location, mews buildings may be required to incorporate gable ended pitched roofs.

(g) 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.

(h) Potential mews laneways must have a minimum carriageway of 4.8m in width (5.5 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 to the rear of the mews building and shall be landscaped so as to provide for a quality residential environment. The depth of this open space for the full width of the site will not generally be less than 7.5m unless it is demonstrably impractical to achieve and shall not be obstructed by off street parking. Where the 7.5m standard is provided the 10 sq.m of private open space per bedspace standard may be relaxed.

(l) The distance between the opposing windows of mews dwellings and of the main houses shall be generally a minimum of 22m. This requirement may be relaxed due to site constraints. In such cases, innovative and high quality design will be required



to ensure privacy and to provide an adequate setting including amenity space for both the main dwelling and the mews dwelling”.

Basements are addressed at 16.10.15 where it is outlined that *“It is a policy of Dublin City Council to discourage any significant underground or basement development or excavations below ground level of, or adjacent to, residential properties in Conservation Areas or properties which are listed on the Record of Protected Structures. Development of all basements or any above ground buildings for residential use below the estimated flood levels for flood zone areas “Zone A” or “Zone B” will not be permitted. (Policy S113)*

## 5.2. Natural Heritage Designations

The nearest Natura 2000 sites, South Dublin Bay and River Tolka SPA (ref.004024) and South Dublin Bay SAC (ref.000210), are located a little over 2km to the east.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1 The first party appeal is submitted by O Keefe Architects Ltd. Grounds of appeal are summarised as follows:

- Works are intended to facilitate the owner in downsizing thus providing for family use of the main dwelling as such is supported by QH 14.
- No historic fabric in the back lane area and conservation status of the property is not affected.
- Proposal will remove the rear addition to the main house and return rear elevation to original form.
- Notably recent developments to the rear of neighbouring properties which were not subject to planning applications including provision of additional accommodation and solar panels.

- Woods Way is a mixed use laneway ideal for regeneration and renewal.
- Proposed dwelling will appear as a single storey structure with provision for one off street parking space. The design provides dual aspect, main living accommodation at garden level with one large landscaped courtyard to the front and a private small secluded rear court area serving both the main living accommodation and bedrooms below.
- Proposal will be similar in scale and mass to existing shed on site. No significant impact on character or appearance of the main house or adjacent properties.
- Previous decisions were made when the house was a protected structure and before the laneway was upgraded.
- Permission granted for basement development across the laneway. WEB 1175/15. Proposal is removed from main houses on Mount Eden Road and will not result in any significant underground basement excavations near the main house or other significant structures protected by the ACA.
- Design is in line with principles of site layout for planning and sunlight a Guide to Good practice, meets all qualitative standards and meets or exceeds the building regulation standards.
- Zen garden courtyard (1.86m x 4.27m) provides an amenity area of 7.9m squared and the open space of 88.2sq.m for existing house exceeds the minimum requirements.
- Open space by way of private courtyard to front of dwelling is fully concealed and private. Separation of two rear gardens is a design enhancement which ensures privacy and addresses to the amenities of other properties.
- Design enhancements to the existing building will result in a reduction of overshadowing and increase in light to neighbouring property. Boundary treatments will be maintained.
- No overlooking or overshadowing arises. Included with the appeal a proposal to reduce the height by up to 650mm to match height of garage to No 6.

- Dual function landscaped courtyard comprising reinforced grass paving and permeable paving. The Board is invited to consider a grant of permission which would provide single use courtyard with reliance on the laneway for parking.
- Proposed new house is for a low profile, backland development in full conformity with Policy 16.10.8 and the proposed scheme fits in with and is consistent with the established pattern and character of the area.
- All works and alterations proposed are designed to ensure that it respects the grouping of this building within its neighbours in the ACA. No loss or detracting of existing architectural features.

## 6.2. Planning Authority Response

The Planning Authority did not respond to the appeal.

## 6.3. Observations

- 6.3.1 Observations submitted by Dr Diarmuid Ó Gráda on behalf of Niall and Joan Loftus, No 2 Mount Eden Road. Proposal represents over-development of the plot. Bulk, length and external finishes of the proposed development make it unsuitable for this location. Mount Eden Road ACA is marked by attractive scale and proportions which is a feature for protection. Proposal would degrade the heritage setting protect by the ACA. Proposal is contrary to 16.10.16(a) requiring a unified approach and (k) requiring open space to rear of good residential quality normally 7.5m wide. Loss of amenity and intrusion on dwellings 2, 4 and 6 Mount Eden Road.
- 6.3.2 Submission from Manahan Planners on behalf of the Kelly family who reside at 6 Mount Eden Road, immediately adjoining the proposed development. Proposal to build within the garden buffer area between the main houses and rear gardens is completely at variance with the existing pattern of development. Proposal would be visually overbearing and obtrusive by way of its proximity to the main houses and its location on the boundaries of the site. Visually unacceptable aspect to the lane.

Deficient open space. Contrary to co-ordinated development approach of the lane.  
Proposal will be visually obtrusive. Unsatisfactory standard of accommodation.  
Parking congestion.

## 7.0 **Assessment**

7.1 There issues which arise in the assessment of this appeal can be addressed under the following headings:

- Principle of development. Zoning and Development Plan Provisions.
- Site capacity. Quality of design and layout in particular in terms of residential amenity and impact on the amenities of adjoining residential property and the character of the Conservation area
- Other Matters.

## 7.2 **Principle of Development. Zoning and Development Plan Provisions**

7.2.1 As noted above, the Z2 zoning objective of the Dublin City Development Plan 2016-2022 pertains to the site. The relevant objective is “To protect and or improve the amenities of residential conservation areas.” The proposal involves the demolition of an existing rear extension apparently constructed in the 1970s. The extension is a single storey flat roofed structure of 17 sq.m and is of no apparent architectural merit. On this basis I consider that there is no objection in principle to the demolition of this annex to the existing dwelling.

7.2.2. As regards the proposed provision of a second mews type dwelling on the site, I note the policy context including Dublin City Development Plan (Policy QH8) which aims to promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area. In line with National Policy the Development plan seeks to promote higher density development in prime urban centres and areas close to transport routes as well as encouraging a mix of housing

types and sustainable low maintenance house design. In this context I consider that the principle of a mews type development is acceptable.

7.2.3 Chapter 16 of the Dublin City Development Plan 2016-2022 entitled Development Standards: Design, Layout, Mix of Uses sets out specific requirements with regard to mews dwellings. These include, inter alia, a preference for a unified approach; innovative architectural response; minimum 4.8m carriageway width, increased to 5.5m where no verges or footpaths exist; and provision of private open space to the rear of the building not generally less than 7.5m in width and in accordance with the 10sq.m per bed space standard requirement. I note that whilst restricted in width (approximately 4m at its junction with Mount Eden Road and Belmont Avenue) Woods Way is approximately 7.2m wide at the appeal site frontage. Having regard to its circuitous character and to the established pattern of development in the vicinity, including previous board decisions in respect of mews properties to the rear of No 24 and No 26 Mount Eden Road, I consider that the restricted access width does not present a barrier per se to the development of a mews type structure on the appeal site.

7.2.4 Having ascertained a generally favourable outlook in respect of the principle key considerations it is appropriate to turn to the particulars of the proposal, specific site capacity, the residential amenity arising, protection of the amenities of adjoining neighbours and the general character of the conservation area. I note that the development plan outlines in respect of basements that it is the policy of the Council to discourage any significant underground or basement development or excavations below ground level of or adjacent to residential properties in Conservation Areas or properties listed on the record of protected structures. In this light I consider that the reliance within the proposal on provision of significant accommodation at basement level is in conflict with the development plan provisions.

**7.3 Quality of design and layout in particular in terms of residential amenity and Impact on the amenities of adjoining residential property and the character of the Conservation area**

7.3.1 The basis for the City Council's refusal relates to residential amenity concerns principally that the proposal fails to comply with the relevant standards as set out in the development plan, the substandard nature of private open space provision within the proposed development and issues of concern with regard to light and ventilation given the amount of accommodation proposed at basement level. I am inclined to concur with the Planning Authority contention that the level of private open space is substandard in terms of its fractured nature, part location at basement level in the form of a zen garden 7.7m<sup>2</sup> and dual purpose internal courtyard / car parking space of 22.3m<sup>2</sup>. The first party submits that the proposal complies with the general standard of 10sq.m per bedspace, however I note that the proposal does not comply with the requirement for open space of minimum 7.5m deep to the rear of the mews building. Whilst I consider that flexibility could be applied in respect of quantitative standards having regard to the infill nature of the development site, however I am inclined to agree with the planning authority that the residential amenity of future occupants would be unduly compromised and the proposal would set an undesirable precedent. The elimination of the parking space element does not resolve the issue in my view. As regards the provision for significant accommodation at basement level, I consider that quality of daylight and sunlight will be poor and the aspect from within the proposed dwelling will be very limited and result in a poor standard of internal residential amenity.

7.3.2 As regards the design impact in terms of urban form and streetscape, I consider that the design due to its single storey character is visually acceptable in terms of its aspect to the laneway. Internally on the site the proposed building design and form provides for a structure, which due to its concentration of development at basement level does not result in overlooking or overshadowing. However, I am inclined to concur with the third party observers that due to its proximity to the rear of No's 2, 4 and 6 Mount Eden Road (5m to No 6) the proposal would represent an incongruous addition which would detract from the established character and predominant pattern and form of development in the Belmont Avenue Mount Eden Road and Environs ACA.

#### **7.4 Other Matters.**

7.5 As regards the issue of appropriate assessment having regard to the nature and scale of the proposed development and the nature of the receiving environment, 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.

#### 7.1. **CONCLUSION AND RECOMMENDATION**

Having regard to my assessment of the development as outlined above I consider that the proposed development would detract from the amenities of the area by virtue of its design and would result in a poor standard of residential amenity. I therefore recommend that permission be refused for the following reason.

#### **REASONS AND CONSIDERATIONS**

It is considered that the proposed development by reason of its design including the provision of significant accommodation at basement level, and the nature of provision of private amenity space would be contrary to the provisions of the Dublin City Development Plan 2016-2022 and would be inappropriate and detrimental to the integrity of Belmont Avenue Mount Eden Road Architectural Conservation Area. Having regard to the design and layout of the proposed development, it is considered that the proposed development would result in a substandard form of development for future residents by reason of the substandard quality and quantity of open space and provision of sunlight and daylight. The proposed development area would set an undesirable precedent for similar such development and would therefore be contrary to the proper planning and sustainable development of the area.

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Bríd Maxwell  
Planning Inspector  
10th April 2018