



An
Bord
Pleanála

Inspector's Report ABP-301905-18

Development	House, access and all associated site works
Location	17, Belgrove Road, Dublin 3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4009/17
Applicant(s)	Trish Moore
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Trish Moore
Observer(s)	Patrick J Mulvihill
Date of Site Inspection	24 th October 2018
Inspector	Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located in the suburb of Clontarf, northeast of Dublin City Centre, in proximity to the coast. The area of Belgrove Road is residential in character, with a school site located at the southern end of Belgrove Road. Vernon Avenue, which is parallel to Belgrove Road, comprises the main commercial hub of Clontarf, as well as a significant residential component.
- 1.2. The subject site is the subdivided rear private garden of an existing dwelling, with access to the rear garden via a laneway. The laneway, which is in council ownership, connects from the east side of Belgrove Road to Vernon Avenue and serves a number of properties, most of which have sheds and garages onto the laneway. There is at present gates on both end of the laneway at Belgrove Road and Vernon Avenue, with access via a coded keypad. There is a residential development under construction on the east side of the laneway, opposite the appeal site. This residential development has a new entrance from Vernon Avenue and can also access the existing laneway system. The laneway has at present a poor finish given its use by construction traffic on the adjoining site.
- 1.3. The subject site comprises a single storey pitched roof wooden shed, in use as a home office. There is an access gate onto the existing laneway. The access is recessed approx. 1.8m from the laneway edge. The building line along the laneway is irregular, with some buildings set back but with a remaining projecting wall to identify the extent of the property.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Construction of a 2 storey 2 bed dwelling, gable fronted with a deep pitched roof.
 - The floor area of the new build is stated to be 129sqm.
 - The design was amended by way of further information. The width of the dwelling is 6.7m by 15m deep, with an overall height of 7.6m. Given the depth of the dwelling, the dwelling has been designed so as be narrower in the

centre and partially set off the boundaries to the north and south to facilitate the provision of lightwells in the middle of the building.

- An undercroft parking space is proposed at the entrance from the mews and the entrance to the dwelling is from the recessed side section of the undercroft parking space.

3.0 Planning Authority Decision

3.1. Decision

Permission REFUSED for the following reason:

The laneway network from which the proposed mews development would gain access is currently substandard. It is considered that the proposed development, pending surety of convenient and safe access onto the public road network, would be premature and therefore by itself and by the precedent it would set, would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report generally reflects the decision of the Planning Authority. Further information was requested in relation to the following: query in relation to the applicant's legal interest to provide vehicular access from Vernon Avenue via a new residential development currently under construction; request for a set back to the building line by a minimum 1.8m from the existing laneway edge; demonstration that proposed mews would facilitate/not impede other mews developments having regard to front and rear building lines and first floor east facing windows; request to address substandard private amenity space proposed. The following is of note:

- The applicant submitted a revised design, reducing the footprint by 10sqm, reducing the depth of house by 2.725m, reducing the scale of rear first floor

windows, set back of the front building line 1.8m and increase in the garden depth to 11m.

- The applicant submitted a proposed template for front and rear building lines that could be followed along the entire laneway should other owners decide to develop mews dwellings.
- The applicant has no agreement from the landowner of the adjoining development to use the road proposed to serve the new housing development, however, it is noted that there are two access points to the laneway which the applicant has a right to use. The transportation section of DCC notes that the applicant can access the site from the existing laneway from Belgrove Road.
- The transportation section of DCC accepted the revised drawings showing a 1.8m set back from the laneway.
- The planners report states it is still considered that insufficient surety has been provided on how successfully and safely the development will be accessed – with the subject development being a potential catalyst for similar proposals looking for access onto the public road network. As such it is considered that scheme for the time being at least would be a premature development.

3.2.2. Other Technical Reports

Transportation Section: Following receipt of further information, no objection subject to conditions.

Drainage Section: No objection subject to condition.

3.3. Prescribed Bodies

No reports received.

3.4. Third Party Observations

A number of submissions were received which raised a number of issues, including the followings:

- Premature pending development of house scheme permitted under Reg.Ref.2401/13
- Lane width substandard and will set precedent for similar developments resulting in traffic issues
- Design not typical mews type dwelling and not part of a cohesive proposal for other mews dwellings along the lane
- Potential overshadowing, loss of daylight/ventilation and loss of privacy to neighbouring property
- Proximity of rooflights to party boundaries will generate noise
- Lack of private open space
- Lack of information in relation to foul and water connections and no SuDS measures detailed
- Area subject to flooding/high water table, poor soil permeability.

4.0 Planning History

Site north of appeal site, 45 Belgrove Road:

ABP PL29N.248552 (Reg. Ref. 2378/17) – Permission REFUSED for house to rear of 45 Belgrove Road with access off laneway. Reasons for refusal related to scale and proximity to boundaries; and also the laneway network being currently substandard and would result in a traffic hazard.

Development on Opposite Side of Laneway to Appeal Site/Site of Former Holy Faith School Tennis Courts:

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

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

Reg. Ref. 4754/06 – Permission GRANTED in 2007 for a scheme of 12 houses and 18 apartments at this location.

An application to EXTEND this permission was REFUSED by the planning authority on the basis that the scheme and in particular the apartment element would be cumulatively deficient and significantly substandard in relation to residential amenity provision, which would materially contravene the current Dublin City Development Plan 2011-2017.

5.0 Policy Context

5.1. National Policy

- Project Ireland 2040 National Planning Framework (2018)
- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (DEHLG 2009) and the accompanying Urban Design Manual: A Best Practice Guide (DEHLG 2009),
- Design Manual for Urban Roads and Streets (DMURS) (DECLG and DTTS 2013), and
- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007).

5.2. Development Plan

Dublin City Development Plan 2016-2022

- **Zoning objective Z1**, the objective for which is ‘to protect, provide and improve residential amenities.’
- **Chapter 5:** Quality Housing.
- **Section 16.10.2:** Residential Quality Standards, Houses
- **Section 16.10.16:** Mews Dwellings
- **Section 16.5,** Plot Ratio: Indicative plot ratio 0.5-2.0 for Z1, with a higher allowance in certain circumstances.
- **Section 16.6,** Site Coverage: Site Coverage- 45-60% for Z1, with a higher allowance in certain circumstances.

The following policies are relevant:

- **Policy QH1:** To have regard to the national guidelines relating to residential development...
- **Policy 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.
- **Policy 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.
- **Policy QH 22:** 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.

5.3. Natural Heritage Designations

The site is not located within or adjacent to a Natura 2000 site.

6.0 The Appeal

6.1. Grounds of Appeal

The applicant has appealed the decision of DCC to refuse permission. The following is a summary of the grounds of appeal:

- Following a request for further information all issues were addressed satisfactorily save for the issue of access.
- The applicant does not have a right to access the site via the adjoining development currently under construction, however in the future this road will either be taken in charge by DCC or by a management company. If the road is taken in charge, access will be possible through the existing development. If not the management company will have to erect barriers to prevent access and the applicant will seek an agreement to gain access.
- The access road for the new development allows future residents to access the laneway, but is not equal in allowing existing residents to access the new access road from Vernon Avenue.
- The residents of Belgrove Road and the applicant have a clear and defined right of access to the laneway. The use of the laneway for access is established. What will change is the frequency of use and not the use itself. To prohibit access would seem unfair.
- An engineer's letter accompanies the appeal which states that access to the rear laneway can easily be achieved within a safe environment.
- The proposed mews development will allow the applicant to step down from the larger redbrick house which she does not need.

6.2. Planning Authority Response

None.

6.3. Observations

One observation was received from the owner/occupiers of no. 15 Belgrove Road, immediately adjoining the subject site. The issues raised are summarised as follows:

- The existing laneway is substandard for access. The laneway is gated at two points controlled by residents key pad access. The gated access is unsuitable and dangerous for the servicing of a residential development on an ad-hoc basis.
- The engineers letter submitted with the appeal is not considered acceptable. Concerns remain in relation to the laneway, namely sightlines at road entry, vehicle parking and access arrangements including visitors, deliveries, etc; road surface finish marking and drainage; postal service/deliveries; refuse collection etc.
- A comprehensive development based on guidelines or masterplan sympathetic to the surroundings is necessary to guide future mews development.
- The current isolated proposal is premature and should be refused.

6.4. Further Responses

None.

7.0 Assessment

Zoning

- 7.1. The subject site is located within zoning objective Z1, the objective for which is *'to protect, provide and improve residential amenities'*. The provision of residential development is considered acceptable in principle within the zoning objective for the area.
- 7.2. The primary issues for assessment include:
- Vehicular Access and Existing Laneway
 - Design and Layout

Vehicular Access and Existing Laneway

- 7.3. The reason cited in the decision for refusing the development is that the laneway network is currently substandard and there is a lack of surety of convenient and safe access onto the public road network.
- 7.4. The laneway which provides access to the appeal site is in public ownership. I note from DCC records, it was proposed that part of the public right of way over the east-west sections of the laneway from Belgrove Road and Vernon Avenue be extinguished and the laneway be closed by gates. This was rejected by the councillors of Dublin City Council. I note however that there are gates and coded keypads for residents' access at the entrances from Belgrove Road and Vernon Avenue. These appear to be new gates and their planning status is unclear to me. Any enforcement issues are a matter for the planning authority.
- 7.5. The existing laneway serves the rear gardens of 15 houses along Belgrove Road and also the new housing development currently under construction on the eastern side/opposite side of the laneway to the appeal site. The housing development under construction (17 houses), known as Vernon Mews, was permitted with circulation and services allowed along the laneway as part of the permission, however the main access to the development will be via a new entrance from Vernon Avenue, albeit no limitation to the use of the existing laneway entrances was stipulated as part of the permission. There were no gates to the laneway entrances at the time of that permission (2017).
- 7.6. The width of the existing east-west section of the laneway at the entrance from Belgrove Road is approx. 4.9m wide. The laneway runs along the flank of an end of terrace dwelling then turns at a 90 degree angle to run north-south to the rear of the properties along Belgrove Road (where access to the appeal site exists). This section of the laneway has an width of 4.6m with the development of Vernon Mews (currently under construction, PL29N.248552) in place, with the width widened just north of the appeal site as part of that development to approx. 6m, including a new footpath on the east side of the laneway. The laneway at its northern end turns at a 90 degree angle to run east-west toward Vernon Avenue, the width of this section being approx. 3.5m-4m wide.

- 7.7. DMURS recommends carriageway widths of between 5m and 5.5m on local streets. DMURS supports shared surface arrangements in low traffic environments, stating that shared surface streets are particularly effective at calming traffic. Section 4.4.1 of the Manual states that the total carriageway width on Local Streets where a shared surface is provided should not exceed 4.8 metres.
- 7.8. The proposed dwelling provides for a setback of 1.8m from the existing laneway edge on the western side/rear of Belgrove Road, which will facilitate an increased laneway width of 6.4m at this section of the north-south length of the laneway. Should this setback be maintained as a building line for any future mews/backland dwelling, this will ultimately enhance pedestrian safety along the laneway. I note the Transportation Planning Section of DCC considered a setback building line from the laneway of 1.8m (addressed at Further Information stage) to be sufficient to ensure adequate width along this section of the laneway to safeguard future development along the laneway and future pedestrian safety. I consider the laneway width as proposed to be in accordance with DMURS and future proofs further development along the laneway, with future applications to be assessed on their own merits.
- 7.9. The applicant stated that their proposal would preferably access the public road via the housing scheme permitted under Reg. Ref. 2401/13 (as amended by Reg. Ref. 3600/17), however following a Further Information request, the applicant could not demonstrate legal entitlement to use the new road which is currently in the ownership of the developer as the site is under construction. While it is suggested that this road will likely be taken in charge in the future, this cannot be relied upon in the assessment of this proposed dwelling or indeed future development on the western side of the laneway until the development under construction is occupied and the ultimate management of this access road decided. I note that there is no barrier between the new access road/new development and the laneway where the appeal site is located and the permitted application provides for free movement between the two.
- 7.10. The future residents of the proposed dwelling would likely access the site from the Belgrove Road entrance given its proximity to that entrance. I consider the entrance from Belgrove Road, which already caters for vehicular access, to be sufficient to cater for a mews dwelling at this location and the increased vehicular use presented by this additional dwelling will not in my view be so intense as to give rise to traffic

congestion or result in a traffic hazard, particularly given the low speed nature of this environment. With regard to the entrance to the laneway network from Vernon Avenue, there is a limitation in terms of the width of this east-west route when assessed against DMURS, however, there is a pull in area/on street parking proposed as part of the development under construction at that end of the laneway and a clear line of vision of the entrance is available. I do not consider that this development will negatively impact upon that entrance, however, the future use of that entrance for any proposed mews/infill dwellings proposed at the northern end of the laneway is something that would need to be considered in conjunction with the occupation of the development currently under construction. I note no issues were raised under PL29N.248552 in relation to the capacity of the laneway to cater for extra traffic along the north-south section or issues raised in relation to the existing laneway entrances.

- 7.11. In considering the existing vehicular arrangements serving the appeal site, there is an established precedent and right to use the laneway for vehicular access by existing residents on Belgrove Road, therefore I consider there to be a surety of access to the wider public road network. I consider the existing entrances onto the wider public road network to be safe and do not consider the development of this dwelling would result in such an intensification of vehicular use of the laneway as to give rise to a traffic hazard. In my view it is not reasonable to refuse development or consider it premature based on a substandard laneway network given the existing context.
- 7.12. I note the existing laneway is being utilised by construction traffic at present and it is to be upgraded as part of Vernon Mews (under construction), with a new surface tarmac to be laid and a pedestrian footpath inserted along the east side of the laneway. This development is nearing completion. To ensure no conflict between the developments, should the Board be minded to grant permission a condition could be attached to ensure the proposed dwelling is not occupied until the laneway network improvements permitted under PL29N.242866 are delivered.
- 7.13. I note that the laneway is gated and it would be preferable that it were open to ensure ease of access and social integration. I am unclear as to when the gates were erected and by whom. The legality of the erection of the gates is a matter for the planning authority. However, the gated entrance in my view does not result in the

laneway being inaccessible and the proposed dwelling could be accommodated without giving rise to a traffic hazard at the entrance.

- 7.14. The applicant in the grounds of appeal proposes alterations to the laneway to include providing advisory pedestrian lines and a convex mirror, which would provide improved clarity and safety for users of the lane. However, most of the works to the lane fall outside of the site boundary. It is not appropriate, in my view, to rely on works proposed outside of the site, or to attach a planning condition in relation to these works, as there is no concrete evidence to suggest that the subject applicant has sufficient interest to carry out the works. Notwithstanding this, having regard to the modest extent of development proposed and the width of the existing laneway, I am of the opinion that it is adequate to cater for the level of vehicular/pedestrian traffic that would be generated by the proposed dwelling.

Design and Layout

- 7.15. The existing rear garden of 17 Belgrove Road is approx. 42m long. The proposed dwelling is located to the rear of the garden, fronting onto the existing laneway. The depth of the site for the proposed dwelling (including the setback area of 1.8m from the laneway edge) is just under 28m. The depth of the proposed dwelling is 15m, with a rear garden depth of 11m. The existing dwelling has a remaining rear garden depth of 14.2m (from the main body of the dwelling) and 10.6m from the rear return. The dwelling has a gable fronted design, with undercroft parking to the front and a recessed entrance from the side into the dwelling. The overall height of the dwelling is 7.6m.
- 7.16. In terms of residential amenity, given the distance and orientation of the dwelling relative to existing dwellings on Belgrove Road and also having considered the dwellings under construction to the east, I am of the opinion that the proposal would not give rise to undue overlooking, overshadowing or overbearing impacts. The rear garden depths of the dwellings on Belgrove Road are significant and the potential impact of overshadowing to be expected on the rear gardens of the neighbouring property to the north, is in my view acceptable. Overall, I consider that the dwelling, by reason of its simple design and overall scale, is generally acceptable and an infill development of this nature is acceptable within this urban context.

7.17. With regard to boundary treatment, it is important to ensure visibility for cars is not obscured at the entrance into each property and to ensure from an urban design perspective that there is a street presence onto the laneway. I note the opposing development presents the side elevations of dwellings and their fenced back gardens onto the laneway, therefore it would be important for natural surveillance and public realm reasons to ensure the infill dwelling and any future dwellings address the laneway. For these reasons, I am of the view that the gated entrance to the parking space should be omitted by way of condition, should the Board be minded to grant permission.

Appropriate Assessment

7.18. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any European site, 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.

Environmental Impact Assessment

7.19. Having regard to the minor nature and scale of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

8.1. It is recommended that permission is granted.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed dwelling would not seriously injure the

amenities of the area or of property in the vicinity. 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, as amended by the further plans and particulars submitted on the 2nd day of May 2018, 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. The proposed development shall be amended as follows:
 - (a) The sliding vehicular and pedestrian gate shall be omitted from the development and replaced, if desired, by a low boundary wall or fence no greater than 1.2m high.

Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. Details of the materials, colours and textures of all the external finishes to 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.

4. The proposed dwelling shall not be occupied until the works permitted to the laneway under PL29N.242866 are completed.

Reason: In the interest of the proper planning and sustainable

development of the area.

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

6. The developer shall comply with the following requirements in relation to the public roads:
 - (a) All costs incurred by the planning authority, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

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

7. 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.

8. Prior to commencement of development, proposals for a name and numbering scheme shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of orderly development.

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

10. 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 dwellinghouse without a prior grant of planning permission.

Reason: In the interest of residential amenity.

11. Site development and building works shall be carried out only between the hours of 0800 to 1900 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.

12. 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.

Una O'Neill
Senior Planning Inspector

7th November 2018