



An
Bord
Pleanála

Inspector's Report ABP-302487-18

Development

The construction of a detached, two-bedroom, two-storey c. 114m² mews dwelling house onto the public laneway to the east (rear) of 12 Landscape Park, with vehicular access to one off-street parking space, boundary treatments including gates, rear garden space and associated ancillary site works including connection to services.

Location

12 Landscape Park, Churchtown, Dublin 14.

Planning Authority

Dún Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D18A/0598

Applicant(s)

Michelle Dillon

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal

First Party v. Decision

Appellant(s)

Michelle Dillon

Observer(s)

None.

Date of Site Inspection

26th November, 2018

Inspector

Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in an established residential area in the outer suburb of Churchtown, Dublin 14, approximately 1.6km northwest of Dundrum town centre, where it forms part of the rear garden area of No. 12 Landscape Park. The surrounding pattern of development is predominantly characterised by conventional suburban housing, although the lands to the immediate east form part of a larger neighbourhood centre / commercial development (with ancillary car parking) which includes a 'SuperValu' convenience store, a sorting office, and a number of other smaller units occupied by a variety of premises including a café, a pharmacy and a post office.
- 1.2. The site itself has a stated site area of 0.013 hectares, is rectangular in shape, and comprises the easternmost part of the rear garden area serving the two-storey, semi-detached dwelling house at No. 12 Landscape Park. It is bounded by residential properties to the north, west and south, however, the lands to the immediate east comprise a narrow laneway which serves as a circulatory route providing vehicular access to the rear of the adjacent commercial units.

2.0 Proposed Development

- 2.1. The proposed development involves the subdivision of the housing plot presently occupied by No. 12 Landscape Park to facilitate the construction of a detached, two storey dwelling house within the rear garden area of same with an independent vehicular access onto the adjacent laneway to the immediate east. The contemporary design of the proposed dwelling house is based on an asymmetrical plan and will utilise a flat-roofed construction with external finishes to include selected masonry, selected render and timber slats. It has a stated floor area of 114m² and an overall height of 5.85m. Provision has been made for the inclusion of an integrated on-site car parking space which will be accessed from the adjacent laneway via a motorised sliding gate. Water and sewerage services are available from the public mains network.

N.B. On 14th August, 2018, the Planning Authority issued a Certificate of Exemption pursuant to the provisions of Section 97 of the Planning and Development Act, 2000, as amended, with regard to the proposed development.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 15th August, 2018 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 2 No. reasons:

- Having regard to the lack of mews development on this laneway, the substandard design of the proposed house in particular with regards to the siting of the house and the resultant overlooking of neighbours gardens, the lack of any legal agreements regarding the laneway, and the undesirable precedent the development would set, the proposed development is considered contrary to the current County Development Plan, 2016-2022, in particular Section 2.1.3.6 Policy RES6: Mews Lane Housing and Section 8.2.3.4 Additional Accommodation in Existing Built-Up Areas (X) Mews Lane Development. The proposed development would therefore be seriously injurious to the residential amenities and property in the area and materially contravene the zoning objective of the area 'to protect and or improve residential amenity' and would not be in the interest of the proper planning and sustainable development of the area.
- Having regard to the location of the proposed development on a substandard access laneway to the site, the high boundary wall each side of the proposed development and the narrow entrance width and the lack of set back of the entrance, the proposed development would give rise to hazardous turning movements, and is unsatisfactory for pedestrian movements. The proposed development would therefore endanger public safety by reason of traffic hazard or obstruction of road users and the development, by itself, and by the precedent that the grant of permission for it would set for other relevant development, would adversely affect the use of the laneway by road users.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

Details the site context, planning history, and the applicable policy considerations before critically analysing the proposal in terms of compliance with 'Policy RES6:

Mews Lane Housing of the Development Plan and subsequently concluding that the proposed development was not acceptable in principal due to a number of shortcomings. The report proceeds to assess the submitted proposal having regard to the design standards applicable to 'mews' developments as set out in the Development Plan (i.e. separation distances, setbacks, the overall scale of development, and road safety considerations etc.) and states that there are significant concerns with regard to the overlooking of neighbouring properties (including their private rear garden areas), the level of amenity within the proposed accommodation (obscurely glazed windows serving the upstairs bedrooms), and traffic safety. The report thus concludes by recommending a refusal of permission.

3.2.2. Other Technical Reports:

Drainage Planning (Municipal Services Department): No objection, subject to conditions.

Transportation Planning: References the substandard nature of the laneway and raises further concerns as regards the inadequacy of the available sightlines and the safety of pedestrians. It is also noted that the proposed installation of a motorised sliding gate would not accord with Section 8.2.4.9 of the County Development Plan. The report subsequently concludes by recommending a refusal of permission on the following grounds:

- Due to the endangerment of public safety as a result of the substandard existing access laneway to the site, which would give rise to hazardous traffic / turning movements, and is unsatisfactory for pedestrian movements – i.e. the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise, as per Clause 4 of the Fourth Schedule (Reasons for the Refusal of Permission which Exclude Compensation) of the Planning and Development Act, 2000.
- Precedent – i.e. the development, by itself, or by the precedent that the grant of permission for it would set for other development, would adversely affect the use of the laneway by road users, as per Clause 7 of the Fourth Schedule (Reasons for the Refusal of Permission which Exclude Compensation) of the Planning and Development Act, 2000.

3.3. Prescribed Bodies

3.3.1. *Irish Water*. No objection, subject to conditions.

3.4. Third Party Observations

3.4.1. A total of 2 No. submissions were received from interested third parties and the principle grounds of objection contained therein can be summarised as follows:

- The proposal does not comply with the requirements of the Dún Laoghaire Rathdown County Development Plan as regards 'mews' development.
- The undermining of accessibility along the adjacent laneway, with particular reference to its use by adjacent commercial premises.
- Comparable development along this laneway has previously been refused permission under PA Ref. Nos. D06A/0571 & D08A/1407 (ABP Ref. No. PL06D.233120).
- The proposed development consists of the construction of an entirely separate and independent dwelling house as opposed to a 'mews' dwelling or a 'granny flat'.
- Inadequate details have been provided as regards the servicing of the proposed development (no reference has been made to the connection to the mains water supply whilst there is no domestic sewerage network within the laneway).
- The proposal would set an undesirable precedent for further development that would have a negative impact on surrounding properties.
- The overall design, size, scale and height of the proposed development is inappropriate given the site context.
- The stated floor area does not correspond with the submitted drawings.
- The potential for overlooking of adjacent properties with a loss of privacy.
- Devaluation of neighbouring property.
- The overshadowing of adjacent properties due to the overall bulk and height of the proposed dwelling house.

- Inadequate private open space provision.
- Inaccurate and misleading drawings.

4.0 Planning History

4.1. On Site:

PA Ref. No. D99B/1123. Was granted on 26th January, 2000 permitting Mr. Joe Dillon permission for an extension over existing garage and attic conversion with porch to front.

4.2. On Adjacent Sites:

None.

4.3. On Sites in the Immediate Vicinity:

PA Ref. No. D06A/0571. Was refused on 28th June, 2006 refusing Claire Breslin permission for development consisting of (A) the demolition of existing single-storey garage / workshop to rear (B) the construction of a new 2-storey 2-bed mews dwelling (GFA 120.0 sq.m.) with vehicular and pedestrian access from the adjacent laneway; off street parking is provided for 1 no. car a private courtyard and terrace are proposed to the south of the dwelling (C) Site works to accommodate the new dwelling. All at 73 Churchtown Road Upper, Churchtown, Dublin 14.

PA Ref. No. D07A/1287. Was refused on 31st October, 2007 refusing Claire Breslin permission for (a) The demolition of existing single-storey garage/workshop to rear; (b) The construction of a 2-storey, 2-bed mews dwelling (GFA 105.0sq.m) with vehicular and pedestrian access from the adjacent laneway; off-street parking is provided for 1no. car; a private garden is provided to the south of the dwelling; (c) Site works to accommodate the new dwelling, to include relocation of existing pedestrian gate to garden of existing house. All at 73 Churchtown Road Upper, Churchtown, Dublin 14.

PA Ref. No. D08A/1407 / ABP Ref. No. PL06D.233120. Was refused on appeal on 5th August, 2009 refusing Claire Breslin permission for the demolition of existing single-storey garage/workshop to rear; construction of a two-storey, two-bedroom mews dwelling (gross floor area 85.0 square metres); one number off-street parking

space accessed from adjacent public lane and associated site works, at 73 Churchtown Road Upper, Churchtown, Dublin, for the following reasons:

- Having regard to the character of the adjoining residential and commercial areas, the traffic conditions at the junctions of the frontage laneway with the adjacent Churchtown Road Upper and neighbourhood centre car park, and the restricted nature of the proposed vehicular entrance to the site, it is considered that the proposed development would endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.
- The proposed development, in conjunction with existing recent residential development in the area, would result in overdevelopment of the area which would seriously detract from the residential amenity of the adjoining residential property, 71 Churchtown Road Upper and would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Ref. No. D10A/0198. Was granted on 1st September, 2010 permitting Mr. J. Treacy permission for the retention of the increased height of the rear facade wall measuring 8.15m high from ground level. The overall increase of the wall is 1.035m. (See original planning Reg.D08A/0167). All at Supervalu, 13-21 Braemor Road, Churchtown, Dublin 14.

4.4. Other Relevant Files:

PA Ref. No. D05A/0915. Was granted on 22nd November, 2005 permitting Josephine Robotham permission for the demolition of an existing rear shed and construction of a 2 bedroom two storey house with a floor area of 81sqm to the rear garden off the rear and side lanes. Vehicular and pedestrian access is from the side lane with a new entrance gate from the rear lane with off street parking, connections to services to ancillary site developments works. All at 78 Whitebarn Road, Churchtown, Dublin 14.

PA Ref. No. D07A/0955 / ABP Ref. No. PL06D.225686. Was granted on appeal on 18th April, 2008 permitting Gerard Tinnelly permission for the retention and completion of works to the existing two-storey three bedroom mews dwelling to the rear, consisting of amendments to the permission granted under planning register reference number D04A/0406 to include the retention of rear first floor extension

(11.9 square metres); retention of new pedestrian gateway access off laneway to side; retention of increase in height of overall development (remaining two-storey in extent), and to include rooflights, internal reconfigurations, as well as rear and north elevation changes to that permitted under planning register reference number D04A/0406 all at 80 Whitebarn Road, Churchtown, Dublin.

5.0 Policy Context

5.1. National and Regional Policy

- 5.1.1. The ‘*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*’ note that, in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such developments can be provided either by infill or by sub-division. In respect of infill residential development, potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

5.2. Development Plan

- 5.2.1. **Dún Laoghaire Rathdown County Development Plan, 2016-2022:**

Land Use Zoning:

The proposed development site is located in an area zoned as ‘A’ with the stated land use zoning objective ‘*To protect and-or improve residential amenity*’.

Other Relevant Sections / Policies:

Chapter 2: Sustainable Communities Strategy:

Section 2.1: Residential Development:

Policy RES4: Existing Housing Stock and Densification:

It is Council policy to improve and conserve the housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.

Policy RES6: Mews Lane Housing:

It is Council policy to facilitate measured and proportionate mews lane housing development in suitable locations.

Chapter 8: Principles of Development:

Section 8.2: Development Management:

Section 8.2.3: Residential Development:

Section 8.2.3.1: Quality Residential Design

Section 8.2.3.2: Quantitative Standards

Section 8.2.3.4: Additional Accommodation in Existing Built-up Areas:

(v) Corner/Side Garden Sites:

Corner site development refers to sub-division of an existing house curtilage and/or an appropriately zoned brownfield site to provide an additional dwelling in existing built up areas. In these cases the Planning Authority will have regard to the following parameters (Refer also to Section 8.2.3.4(vii)):

- Size, design, layout, relationship with existing dwelling and immediately adjacent properties.
- Impact on the amenities of neighbouring residents.
- Accommodation standards for occupiers.
- Development Plan standards for existing and proposed dwellings.
- Building lines followed where appropriate.
- Car parking for existing and proposed dwellings.
- Side/gable and rear access/maintenance space.

- Private open space for existing and proposed dwellings.
- Level of visual harmony, including external finishes and colours.
- Larger corner sites may allow more variation in design, but more compact detached proposals should more closely relate to adjacent dwellings. A modern design response may, however, be deemed more appropriate in certain areas in order to avoid a pastiche development.
- Side gable walls as side boundaries facing corners in estate roads are not considered acceptable. Appropriate boundary treatments should be provided both around the site and between the existing and proposed dwellings. Existing boundary treatments should be retained where possible.
- Use of first floor/apex windows on gables close to boundaries overlooking roads and open spaces for visual amenity and passive surveillance.

It is also recognised that these sites may offer the potential for the development of elderly persons accommodation of more than one unit. This would allow the elderly to remain in their community in secure and safe accommodation. At the discretion of the Planning Authority there may be some relaxation in private open space and car parking standards for this type of proposal.

(vii) Infill:

New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

This shall particularly apply to those areas that exemplify Victorian era to early-mid 20th century suburban 'Garden City' planned settings and estates that do not otherwise benefit from Architectural Conservation Area status or similar. (Refer also to Section 8.2.3.4 (v) corner/side garden sites for development parameters, Policy AR5, Section 6.1.3.5 and Policy AR8, Section 6.1.3.8).

(x) Mews Lane Development

Section 8.2.3.5: *Residential Development – General Requirements*

5.3. Natural Heritage Designations

5.3.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approximately 4.4km northeast of the site.
- The South Dublin Bay Special Area of Conservation (Site Code: 000210), approximately 4.6km northeast of the site.
- The Wicklow Mountains Special Area of Conservation (Site Code: 002122), approximately 6.6km south-southwest of the site.
- The Wicklow Mountains Special Protection Area (Site Code: 004040), approximately 7.0km south-southeast of the site.

N.B. This list is not intended to be exhaustive as there are a number of other Natura 2000 sites in excess of the aforementioned distances yet within a 15km radius of the application site.

6.0 The Appeal

6.1. Grounds of Appeal

- From a review of the County Development Plan, no part of the wider area has been identified as '*Mews Development Acceptable in Principle*' despite permission having been granted for two mews dwellings nearby at Nugent Road under PA Ref. Nos. D07A/0955 & D05A/0915.
- Whilst it is acknowledged that the subject proposal will be the first such development along this public laneway, there is little reason for such mews development not to be considered acceptable given its adherence to the applicable planning policy.
- Some degree of overlooking is to be expected within an urban context, however, the subject proposal has been carefully designed so as to avoid any direct overlooking of property and in this regard the Board is referred to Drg.

No. 008 which details the 22m separation distances and the use of angled windows in order to ensure indirect views away from neighbouring structures.

- Having regard to the site location in an urban area, which is both serviced and proximate to transportation links, the suggestion that the proposal would set an undesirable precedent at a time when the housing crisis is at its peak displays an unbalanced and unsustainable view.
- The decision to refuse permission is overly cautious and has been guided by matters, such as civil issues, which are irrelevant considerations.
- The reference to the civil issue of a legal agreement, whilst included in the Development Plan, is indicative of the Planning Authority's negative approach to development in this well-serviced area which is suitable for densification. Any such civil agreement is not a matter relevant to the planning decision and will be addressed outside of this context.
- A previous application lodged by SuperValu under PA Ref. No. D10A/0198 failed to establish legal ownership of the public laneway, which is maintained to a high standard, whilst Section 34(13) of the Planning and Development Act, 2000, as amended, does not entitle a person to carry out development.
- The Planning Authority's reference to a planning application lodged in 2006 is out-dated and out of context and thus should not be considered to set any sort of precedent as regards the subject proposal.
- The proposed dwelling house has been designed to be subservient to Landscape Park and is c. 2m lower than the ridge height of those properties.
- No evidence has been provided by the third-party objectors to support their assertion of a devaluation in property.
- Clarification is required as to why the report of the Transportation Planning Section is dated three days after a decision was issued on the subject application.
- The report of the Transportation Planning Section has referred to the Fourth Schedule of the Planning and Development Act, 2000, as amended, however, it is submitted that any such engineering report should be confined to road / traffic considerations.

- The proposed development will not increase traffic volumes or result in a change of circumstances or obstruction along the laneway provided a car parking space is provided in accordance with Council guidance.
- With regard to the suggestion that the existing laneway is substandard, it should be noted that it measures (on average) c. 6m in width and already provides access to the rear of those properties along Landscape Park, 2 No. commercial properties (An Post and SuperValu), and local traffic. Vehicle speeds along the laneway are also significantly curtailed thereby avoiding any hazardous turning movements and maintaining traffic flow.
- The application includes vehicle-tracking to demonstrate that the laneway has the capacity to absorb the development.
- The County Development Plan acknowledges that pedestrian footpaths need not necessarily be provided.
- One on-site car parking space has been provided and the setback of this space could be improved further through the addition of mirrors, cameras or visual aids to indicate vehicle egress.
- There is no footway along the laneway and the boundary height of the properties either side of same serve as a datum, however, the proposed vehicular access achieves the 3m minimum width required by the Development Plan. Furthermore, it should be noted that the entrance to the commercial property at the northern end of the laneway does not achieve a visibility splay yet has operated without incident.
- The proposed development will not impact on pedestrian movements along the laneway and includes an allowance for a pedestrian access thereby maintaining the existing situation on site (which could be further mitigated by the visual aids previously suggested).
- The reference by the Planning Authority to a need to accommodate the unloading etc. of a child's buggy is petty, overly cautious, does not consider the existing nature of the laneway, and represents a minute level of detail not relevant to planning.

- The proposed motorised gate can be easily replaced with a non-motorised substitute.
- With regard to Section 2.1.3.4 & Policy RES6 / Design Standards of the Development Plan:
 - It is accepted that the subject proposal will be the first two-storey dwelling along this laneway, however, there is already some development alongside same.
 - In reference to the requirement for a *'legally acceptable agreement between owners or interested parties who intend to bring the laneway [up] to standards and conditions'*, it would appear that no such agreement has been established or is in place based on previous planning applications such as PA Ref. No. D10A/0198. Moreover, no such agreement was required by the planning application information pack or as a result of discussions with the Council during the compilation of the application. Furthermore, from a cursory review of Section 34(13) of the Planning and Development Act, 2000, as amended, any such legality should not impact the ability to grant permission. In addition, the overall condition of the existing laneway is very high and includes CCTV, lighting and resurfacing etc.
 - A review of the mapping contained in the County Development Plan has already been referenced, with particular attention drawn to existing development at Nugent Road.
 - A survey of the rear garden depths of adjacent properties conducted since the lodgement of the subject application has confirmed the following:

No. 10 Landscape Park:	25.15m
No. 12 Landscape Park (the site):	25.15m
No. 14 Landscape Park:	25.15m

These distances have been taken from the rear building line to the site boundary and the submitted site layout plan shows that all of the

adjoining garden dimensions are of a similar nature i.e. generally achieving the 25m required.

It should also be noted that measurements from OS mapping at the relevant scale required for planning applications can be difficult to establish.

- There are established limits to the commercial property across the laneway and it is unlikely that the laneway will be required for any frontage development associated with same.
- The parking of commercial and other vehicles along the laneway is not a matter for the applicant and should be addressed by the Council as the Roads Authority, although numerous steps could be taken to deal with the matter.
- In terms of compliance with the applicable design standards:
 - The development provides for 48m² of private open / amenity space.
 - There are no instances where opposing habitable rooms are within 22m of each other.
 - The Development Plan contains no reference to 'outlook' whilst the submitted design complies with the Building Regulations as regards light and ventilation.
 - The proposed development will have an established rear outlook from the ground floor living areas that will be enhanced further by the landscaping proposals.
 - The layout and orientation of the proposal has been designed to maximise natural light
 - Outlook has been considered, although it is not a requirement of the Development Plan nor is it quantifiable.
 - The design has been developed having regard to the guidance contained in the Development Plan.

- The gables of the proposed dwelling align with the site boundaries, however, an allowance has been made for pedestrian access from No. 12 Landscape Park to the public laneway.
 - The contemporary design of the proposed development is deferential to the existing dwellings within Landscape Park in terms of height and materiality.
 - With regard to the size / floor area of the proposed dwelling (i.e. 114m²), it is submitted that the gross floor area of a property is obtained from the internal measurement of a building as defined by the Regulations.
 - The Planning Authority has incorrectly calculated the private open space allocation for No. 12 Landscape Park.
- The Planner's Report makes no reference to any loss of light or overshadowing (as supported by the relevant study which has accompanied the application).
 - Adequate provision has been included in the planning application for bin storage and it can be confirmed that a waste collection service is available in the area.
 - A Certificate of Exemption pursuant to Section 97 of the Planning and Development Act, 2000, as amended, was issued on 14th August, 2018 with regard to the proposed development.
 - Policy RES4: '*Existing Housing Stock and Densification*' encourages densification in well-serviced urban areas and seeks to promote / facilitate the development of mews buildings in order to stem population loss.

6.2. Planning Authority's Response

- With regard to the interdepartmental report received from the Transportation Planning Division, the reference to same in the Planning Report mistakenly refers to a date of 18th August, 2018 as opposed to 8th August, 2018.
- In relation to the principal of mews development along this particular laneway, it should be noted that there are no extant grants of permission for mews

development along same. Moreover, concerns with regards to the 'mews' proposal relate not just to the impact of the proposed two-storey construction on the amenity of neighbouring properties, but also to the potential endangerment of public safety by reason of traffic hazard or the obstruction of road users.

- The grant of permission issued for PA Ref. No. D10A/0198 authorised the retention of *'the increased height (by 1.035m) of the rear façade wall measuring 8.15 metres high from ground level'*. Notwithstanding that said application did not relate to a mews development, the circumstances of that site were notably different to the subject proposal (i.e. there was no high boundary wall, narrow entrance width, or lack of a setback, to contend with).
- The rear garden depth of 20-24m was taken from the submitted drawings (the site layout plan) and takes into account the existing extensions on site and within adjoining property.
- The Development Plan states that *'a minimum of 20m and not less than 15m should be achieved between the rear facade of the existing main structure and rear mews structure'*. This design standard has not been met with the result that the adjoining property / private open space is directly and unacceptably overlooked (*N.B.* The obscure-glazed windows may still be capable of being opened).
- The term 'outlook' refers to view. This is a planning consideration and the view from the proposed mews towards the rear facades and private open space of neighbouring properties is considered to be poor by virtue of the shortcomings previously outlined.
- Although the application form states that the gross floor area is 114m², the proposed dwelling house would appear to be of a greater size. For example, an internal measurement of the kitchen area by the Drawing Office has concluded that it measures 25m² as opposed to the stated 23m². Furthermore, due to the relatively thick wall construction, the proposed dwelling will have a much greater impact on site than is suggested by a floor area of 114m².

- With regard to private open space, the Development Plan states that *‘Any provision of open space to the side of dwellings will only be considered as part of the overall private open space calculation where it is useable, good quality space. Narrow strips of open space to the side of dwellings shall not be included within any of the above calculations’*. The measurement of 66m² of open space (minus the narrow strip to the side of the mews) is derived from the submitted drawings.
- At the time of writing of the Planning Report, a valid certificate of exemption had not been issued by the Local Authority. In any event, the absence of any such certificate was not used as a reason for refusal.
- Photographs of the laneway to the rear of the proposed development site were taken as part of the assessment of the application.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Overall design and layout
- Impact on residential amenity
- Traffic implications
- Appropriate assessment
- Environmental impact assessment (screening)

These are assessed as follows:

7.2. **The Principle of the Proposed Development:**

7.2.1. With regard to the overall principle of the proposed development, it is of relevance in the first instance to note that the subject site is zoned as ‘A’ with the stated land use zoning objective *‘To protect and-or improve residential amenity’*. In addition to the foregoing, it should also be noted that the surrounding area is primarily residential in

character and that the prevailing pattern of development in the immediate vicinity of the application site is dominated by conventional housing construction. In this respect I would suggest that the proposed development site can be considered to comprise a potential infill site situated within an established residential area where public services are available and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties. Indeed, the *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009'* acknowledge the potential for infill development within established residential areas provided that a balance is struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

7.2.2. Further support is lent to the proposal by reference to Policy *RES4: 'Existing Housing Stock and Densification'* of the Development Plan which aims to increase housing densities within existing built-up areas having due regard to the amenities of established residential communities, whilst Policy *RES6: 'Mews Lane Housing'* specifically seeks to facilitate the construction of measured and proportionate mews lane housing in suitable locations. These policy provisions are further supplemented by the guidance set out in Section 8.2.3.4: *'Additional Accommodation in Existing Built-up Areas'* of the Plan which details the criteria to be used in the assessment of proposals which may involve the subdivision of an existing house curtilage (i.e. Corner/Side Garden Sites) and / or an appropriately zoned brownfield site to provide an additional dwelling, infill development, or mews lane development.

7.2.3. Whilst I would acknowledge that the subject site is not expressly identified in the County Development Plan as an area where *'mews development'* is deemed to be 'acceptable in principle', in my opinion, the absence of any such site-specific objective in this instance does not preclude the consideration of the subject proposal given the commentary contained in Section 2.1.3.4 of the Plan with regard to Policy *RES4: 'Existing Housing Stock and Densification'* wherein it is stated that the Planning Authority will actively promote and facilitate the development of mews buildings and other infill accommodation which is in harmony with existing buildings.

7.2.4. Therefore, in light of the foregoing, with particular reference to the site context, and noting the infill nature of the site itself, I am satisfied that the wider principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties and the overall character of the wider area.

7.3. **Overall Design and Layout:**

7.3.1. Having regard to the site context, I am generally amenable to the overall site layout and the contemporary design of the proposed dwelling house, although I would draw the Board's attention to Section 8.2.3.4: '*Additional Accommodation in Existing Built-up Areas: (x) Mews Lane Development*' which states that the principle of mews development along a particular laneway will not generally be accepted where the length of all or most of the adjoining rear gardens on the side of the lane concerned is less than 25m (as would appear to be the case in the subject instance) or where, particularly in a commercial area, the lane is likely to be required by the frontage buildings for access or the area adjoining the lane is required for expansion (please refer to my comments as regards the potential traffic impact of the proposed development). In addition, it is notable that the separation distance between the proposed dwelling house and the existing residence at No. 12 Landscape Park only marginally exceeds the 15m minimum requirement set out in the Development Plan (in the event the principle of a residential 'mews' development is deemed acceptable at this location), although the applicant has sought to mitigate any overlooking concerns through the use of an angled fenestration arrangement within the rear elevation of the proposal.

7.3.2. In relation to the overall level of amenity to be provided in the accommodation proposed, whilst I would acknowledge that the first floor bedrooms have been positioned to the rear of the dwelling house, I would nevertheless have some reservations as regards the outlook / view likely to be experienced by occupants of the first floor study, landing and bathroom areas, given the proximity of these spaces to the imposing rear elevation of the adjacent convenience store. I would also have concerns with regard to the proposal to include a pedestrian access from No. 12 Landscape Park onto the laneway through the subject site given that this will involve traversing a 'private' car parking area (which is also immediately below proposed bedroom accommodation).

7.4. **Impact on Residential Amenity:**

- 7.4.1. Given the infill nature of the proposed development, concerns have been raised as regards the potential impact of the proposed development on the residential amenity of neighbouring properties by reason of overlooking with an associated loss of privacy. In this respect I note that the separation distance of c. 15.5m between the first floor windows within the respective rear elevations of both the proposed dwelling house and the existing residence at No. 12 Landscape Park only marginally exceeds the minimum requirements of the Development Plan. Whilst I would acknowledge that the submitted proposal has made efforts to minimise the potential for direct overlooking of neighbouring dwelling houses through the use of an angled / oblique directional fenestration arrangement (in addition to the use of a top-hung pivot opening mechanism and partial obscure glazing), I am inclined to concur with the assessment by the case planner that concerns remain as regards the likely perception by the occupants of neighbouring properties that they are being overlooked whilst the possibility remains that the proposed fenestration / glazing arrangements could be replaced / substituted at some future date to the detriment of residential amenity. Furthermore, I would suggest that the proximity and orientation of the southernmost first floor bedroom window within the proposed dwelling house relative to the site boundary would also unduly compromise the privacy of the rear garden area of No. 10 Landscape Park to the immediate south.
- 7.4.2. On balance, whilst I would concede that some degree of overlooking is to be expected within a built-up urban area, in light of the submitted design and the available separation distances (and noting the design considerations set out in Section 8.2.3.4: '*Additional Accommodation in Existing Built-up Areas*' of the Development Plan), it is my opinion that the subject proposal would have an unacceptable detrimental impact on the residential amenity of neighbouring properties, with particular reference to No. 10 Landscape Park, by reason of overlooking and a loss of privacy.

7.5. **Traffic Implications:**

- 7.5.1. The proposed development includes for 1 No. on-site car parking space in accordance with the requirements of Table 8.2.3: '*Residential Land Use - Car Parking Standards*' of the Development Plan (i.e. 1 No. space per 2-bedroom

dwelling house) which is to be accessed from the adjacent laneway to the immediate east via a motorised sliding gate, however, I would have serious reservations as regards the overall suitability and practicality of such an arrangement given the potential impact on traffic safety and road users. In this regard I would advise the Board at the outset that the laneway in question presently accommodates two-way traffic flow between its junction with Churchtown Road Upper to the south and Braemor Road to the northeast. Furthermore, it provides vehicular access to the rear of several of the commercial / retail units within the adjacent neighbourhood centre, including the 'SuperValu' convenience store and the An Post sorting office, as well as the adjacent car park.

- 7.5.2. Having regard to the foregoing, it is of further relevance to note that the section of the laneway in the immediate vicinity of the application site is also used to accommodate overspill parking from the neighbourhood centre car park (as was apparent during the course of a site inspection) which has the effect of considerably reducing the available carriageway width with the result that there is insufficient space to allow two cars to pass side-by-side. Whilst I would acknowledge that the usage of this area for car parking would not appear to be formalised and seemingly occurs on a somewhat haphazard basis, it would appear to be accepted practice and, therefore, whilst the laneway is approximately 5-6m wide in places, the full extent of the carriageway is not available during the normal day-to-day operation of the neighbourhood centre.
- 7.5.3. Accordingly, having reviewed the available information, it is my opinion that the introduction of a vehicular entrance at the location proposed would be likely to give rise to conflicting traffic movements (due to the need for vehicles having to reverse to / from the proposed entrance because of the absence of any on-site turning facilities) and thus would undermine the free movement of traffic along this section of roadway whilst contributing to localised traffic congestion to the detriment of other road users.
- 7.5.4. With regard to the assertion that the existing laneway is a public road and thus the management of traffic and parking practices along same is the responsibility of the Roads Authority, whilst I note that the Planning Authority has not disputed this claim, it would be preferable if greater clarity could be provided as regards the actual legal status / ownership etc. of the laneway. Furthermore, although the introduction of a one-way system could potentially ease congestion along the laneway, I would

suggest that the imposition of such an arrangement in the absence of appropriate consultation with any affected third parties, such as the occupants of adjacent properties, would likely give rise to difficulties.

7.5.5. In addition to the aforementioned problems attributable to traffic movements to / from the proposed entrance arrangement and their impact on traffic along the laneway, in my opinion, the absence of any dedicated pedestrian footpath alongside either the laneway or the site frontage, particularly when combined with the restricted sight distance from the proposed entrance onto the carriageway, gives rise to serious concerns as regards pedestrian safety and the endangerment of same by reason of traffic hazard.

7.6. **Appropriate Assessment:**

7.6.1. Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

7.7. **Environmental Impact Assessment (Screening):**

7.7.1. Having regard to the nature and scale of the proposed development, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, 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. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. Having regard to the site location along a minor laneway which is seriously substandard in terms of width and lacks a pedestrian footpath, the existing traffic conditions along the laneway and its relationship with adjacent development, and the restricted nature of the proposed vehicular entrance to the site, it is considered that the proposed development would lead to conflict between road users, that is, vehicular traffic, pedestrians and cyclists, would result in the obstruction of other road users, and would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the restricted size and configuration of the site, it is considered that the proposed development, by reason of its overall design and proximity to the site boundaries, would result in an unacceptable reduction in the established levels of residential amenity of the neighbouring property to the immediate south by reason of overlooking. The proposed development would, therefore, seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

11th December, 2018