



An  
Bord  
Pleanála

## Inspector's Report ABP-302974-18

### Development

PROTECTED STRUCTURE:

Construction of news house with parking space.

### Location

46, Belgrave Square West,  
Rathmines, Dublin 6

### Planning Authority

Dublin City Council South

### Planning Authority Reg. Ref.

3147/18

### Applicant(s)

Diarmuid & Bernadette O'Byrne.

### Type of Application

Permission

### Planning Authority Decision

Grant

### Type of Appeal

Third Party

### Appellant(s)

Billy Glennon & Trudi Deveraux

### Observer(s)

None

### Date of Site Inspection

16<sup>th</sup> of January 2019

### Inspector

Karen Hamilton

## 1.0 Site Location and Description

- 1.1. The subject site includes a mid-terrace, Victorian, two storey over basement dwelling at No. 46 Belgrave Square, Rathmines, Dublin 6. The dwelling and those along the adjoining terrace are protected structures. The site backs onto Cambridge Road with vehicular access from the road, across a small private lane, into a single storey double garage.
- 1.2. The rear garden is bound at either side by block walls, c. 3m at the end of the garden adjoining the northern boundary and c. 2m along the southern boundary.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
  - Demolition of a single storey garage to the rear of the main dwelling,
  - Construction of mews house (100m<sup>2</sup>) facing onto Cambridge Road, single car parking space, first floor terrace to the front and rear,
  - New 2.2m high wall built behind the historic stone wall along Cambridge Road and a new 2.1m high vehicular timber gate.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to grant permission subject to 9 no. conditions of which the following is of note:

C 4- The external wall, roof and window finishes of the dwelling shall be in accordance with the further information documentation and no alterations shall be permitted unless written consent from the Planning Authority.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission following the submission of further information as summarised below:

- Alteration of the rear garden space of the mews dwelling to provide 45m<sup>2</sup> of open space and provision of screening on the external terrace of the first floor with perforated brick to eliminate any excessive overlooking.
- The submission of the Deeds of property to indicate that the applicant is the owner of the rear laneway and confirmation that the stone wall to the rear of the site is the original wall. It was also noted that No. 47 has a single storey building along the site boundary onto Cambridge Road.
- Submission of autotrack analysis to indicate that a car can safely access and regress into the car parking space.

The report of the planner noted the response from the Roads Department and the Conservation Officer and considered the proposal complied with the policies and objectives of the development plan.

#### 3.2.2. Other Technical Reports

Traffic Division- No objection subject to conditions.

Conservation Officer- No objection to proposal.

#### 3.3. **Prescribed Bodies**

None received.

#### 3.4. **Third Party Observations**

Three submissions were received from residents in the vicinity of the site, including the grounds of appeal, and the issues raised are similar to those summarised in the grounds of appeal and include:

- The proposal would set an undesirable precedent for similar developments.
- The site and other sites in the vicinity cannot accommodate these mews dwellings.
- There is substandard provision of open space.
- The proposal is overdevelopment and the mews dwelling is over the permitted 99m<sup>2</sup>.

## 4.0 Planning History

### Reg Ref 0204/18

Social Housing Exemption Certificate for the Mews Dwelling.

## 5.0 Policy Context

5.1. **Architectural Heritage Guidelines for Planning Authorities, 2004.** Development guidelines for Protected Structures and Areas of Architectural Conservation.

5.2. **Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007).**

### 5.3. **Dublin City Development Plan 2016-2022**

The site is zoned in **Z2** , residential conservation, where it is an objective “*To protect and/or improve the amenities of residential conservation areas*”.

#### **Section 16.10.2 Residential Quality Standards – Houses**

**Section 16.10.16 Mews Dwelling.** Development is confined to single family units, two storeys in height. There is a need to provide one off street carpark and sufficient rear open space. Minimum width of 7.5m and 15 m<sup>2</sup> per bed space of rear open space required. Minimum distance of 22m from rear building.

The subject site is a **protected structure** and within a **residential conservation area** and therefore the following policy of the development plan and guidance are relevant.

**Policy CHC2:** To ensure that the special interest of protected structures is protected.

Development will conserve and enhance Protected Structures and their curtilage and will: (a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest

**Policy CHC4 & CH5:** Conservation Areas: Development will not harm the features of special interest in the conservation areas or involve harm to loss of traditional fabric.

**Appendix 24:** Protected Structures and Buildings in Conservation Areas.

#### 5.4. **Natural Heritage Designations**

None of relevance to the proposed development.

#### 5.5. **Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development 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.

### 6.0 **The Appeal**

#### 6.1. **Grounds of Appeal**

The grounds of appeal are submitted on behalf of a resident to the north of the site and the issues raised are summarised as follows:

- There is no objection to the principle of the development.

##### Residential Amenity

- There are concerns in relation to the setback distance from the first floor building line.
- The further information request has been detailed.
- The further information was not adequately addressed in particular the minimum set back of 22m (now 15.34m).
- The first floor could be further set back to prevent any overbearing impact on the adjoining dwelling.

##### Open Space

- The cumulative amount of rear open space provided is 45.3m<sup>2</sup> and the mews garden rear depth is 4.8m.
- The main dwelling is in multiple occupancy and therefore the amount of open space provided should accommodate both the existing and proposed dwelling which has not been met.

- The current dwelling has 10 no. bed spaces and 15m<sup>2</sup> of open space per bed space should be applied, therefore 150m<sup>2</sup> would be required and only 51m<sup>2</sup> is included.

## 6.2. Applicant Response

A response to the grounds of appeal from an agent on behalf of the applicant has been submitted as summarised below:

- Substantial changes were made to the overall proposal on foot of a further information request, including the provision of additional open space by the reduction in the floor space of the proposed mews and the inclusion of perforated brick on the rear external terrace to prevent overlooking.
- The mews dwelling has been designed to prevent any overlooking or overshadowing on the adjoining property as illustrated on the overshadowing drawings submitted with the application.
- The dwelling was in multiple units prior to the purchase by the applicants. The main dwelling has been converted into single occupancy and 2 basement apartments have been retained at the basement.
- It is intended to convert the entire dwelling into one family unit and the present owners will move into the mews dwelling.
- It is noted that No. 47 have applied for planning permission (Reg Ref 3368/18) which will significantly alter the view and massing from their site and there is no intention to appeal this application.

## 6.3. Planning Authority Response

None received.

## 6.4. Observations

None received.

## 6.5. Further Response

A response from the appellant was received in relation to the response from the applicant which is summarised below:

- The applicant's agent makes reference to an existing boundary wall ( non-original block wall) stating that this wall is "significantly high" and suggested the two storey mews will have a "minimal impact" as a result of the wall.
- The wall is 3,060mm high and the proposed mews wall is 6,250mm.
- Photograph of the wall, taken on 08<sup>th</sup> of Jan 2019, is submitted to illustrate overshadowing, therefore, since the mews is closer to the boundary and higher there will be overshadowing.
- The location of the proposed mews dwelling to the rear of the terrace of protected structures (c.15m) is too close.
- The first floor element of the mews should be set back to prevent any overlooking and overshadowing.
- The applicant states that the use of the ground floor basements in the main dwelling will cease upon commencement of development. The applicant did not state this in the original application, it is questioned if this is exempt development.
- The issues raised in the grounds of appeal are reiterated.

## 7.0 Assessment

7.1. The issues of the appeal can be dealt with under the following headings:

- Impact on Residential Amenity
- Impact on the Built Heritage
- Access
- Appropriate Assessment

## **Impact on Residential Amenity**

- 7.2. The proposed development includes the removal of a single storey garage to the rear of the existing dwelling, facing onto Cambridge Road, and the construction of a new two storey mews dwelling. The grounds of appeal are submitted from the residents of the property at No 47, to the north of the site who are concerned the mews dwelling will have a negative impact on their residential amenity and are particularly concerned with the inadequate set back and height of the proposed building. I have assessed the impact on the residential amenity below and the visual impact in addressed below in regard to the built heritage.
- 7.3. Overshadowing: The 2 storey mews (c. 6.3m) will replace a single storey garage and is located to the south of No.47, the appellant. The existing parity wall between the subject site and the appellant's consists of a 3.3m block wall, which the appellant states currently provides overshadowing in the rear garden and will be exacerbated by an additional 3.2m by the first floor of the mews. Permission was recently granted (Reg Ref 3368/18) for extension and alteration to No.47 at the north and includes a single storey games room and office extending 10m from the rear boundary. Shadow analysis drawings accompanied the planning application, illustrating the existing garage and proposed dwelling during December, March and June. This analysis indicates an increase in overshadowing along the south of the rear garden space of No. 47 during mid-day in March. I note the size of the rear garden in the appellant's property and whilst I consider there will be an increase in overshadowing I do not consider, it would cause a significant negative impact on the residential amenity having regard to the location, duration and remaining garden space not overshadowed. In addition, should the games room be developed this would further reduce the area overshadowed.
- 7.4. Overlooking: The proposed mews includes a first floor terrace at the front and rear. Following a further information request to reduce the potential for overlooking and to ensure adequate privacy for the private amenity space of the existing dwelling, the design of the first floor was altered to include a perforated brick façade to the rear wall of the terrace. The distance from the rear of the existing dwelling is c.15m, c.7m less than the recommended c. 22m required in Section 16.10.16 of the development plan, mews dwellings, although considering the absence of any first floor rear



windows and the perforated brick finish for the terrace I do not consider the proposal will cause any significant overlooking on the existing property or those in the vicinity.

- 7.5. Overbearing: The proposed mews dwelling will be located at the end of the garden, of No 46, adjoining No 47 (c.15m from the first floor windows) and will be visible from the rear of both properties. The mews is 2 storeys and contemporary in nature with a flat roof and having regard to the distance from the rear of the properties and the design it will be not of such a magnitude to have an overbearing impact on either the living space or the rear amenity space of the adjoining dwellings. In addition, attention is drawn to section 16.10.12 of the development plan which advocates the use of mews dwellings in line with national policy to promote increased residential densities in proximity to the city centre.
- 7.6. Open Space: Section 16.10.16 of the development plan requires the provision of a minimum width of 7.5m and 15m<sup>2</sup> per bed space for mews dwelling, in the case of main dwelling private open space standards in the development plan must be complied with. The proposed mews dwelling has 45m<sup>2</sup> of private amenity space with 12m<sup>2</sup> as a first floor balconies and the remainder on the ground floor, which complies with the development plan. The grounds of appeal have referred to the use of the basement in the main residence, at No. 46, for separate accommodation and consider open space standards for multiple occupancy should be applied. The rear open space provision retained for the main dwelling is 51m<sup>2</sup>, which complies with the 15m<sup>2</sup> allocation for a 3 bed dwelling. A response from the applicant states the main dwelling will return to one single unit on completion of the mews dwelling, which I consider can be reasonably be included as a condition on any grant of permission.
- 7.7. The grounds of appeal are concerned the development will set an undesirable precedence for similar mews dwellings in the vicinity. In this regard, I do not consider the policies of the development plan preclude proposals in the vicinity of the site and new developments will be assessed on a case-by-case basis on their own merits.
- 7.8. The proposed development would have limited impact on the adjacent property to the north (No. 47) having regard to the size of the common boundary wall along the north (3.1m) and the height and design of the rear façade of the mews dwelling.

## Impact on Built Heritage

- 7.9. No. 47 Belgrave Square is a protected structure and is located on lands zoned as Z2, residential conservation. The proposed development includes the removal of a single storey garage (37m<sup>2</sup>) at the end of the rear garden, facing onto Cambridge Road and the construction of a two storey mews dwelling. The impact of both the removal of the garage and construction of the mews, on the built heritage, are addressed separately below.
- 7.10. Demolition of garage: Guidance is provided in Section 3.10.2 of the Architectural Heritage Guidelines for Planning Authorities for demolition of structures and buildings in Architectural Conservation Areas and protected structures. Where it is proposed to demolish a structure, the features of special interest must be assessed and the impact of the replacement on the character of the area. With this in mind I have assessed the features of interest of the current building which has a minimal amount of original fabric and note the modern design and materials used in the garage and I consider it is justifiable to demolish the structure where the replacement is of a high architectural quality and does not affect the character and setting of the main house.
- 7.11. Design: The mews dwelling is 100m<sup>2</sup> and is a contemporary flat roofed structure, with buff clay brick walls and powdercoated aluminium rainwater products. A Conservation Report accompanied the planning application, refers to the retention of the garden and does not consider the new structure will be impacted as the main reason for protection is the cohesion of the square to the front.
- 7.12. Section 16.10.16 of the development plan provides guidance for development of mews dwellings where new buildings are restricted to 2 storeys and the design should complement the character of the main building with regard to scale, massing, height, building depth, roof treatment and materials. In addition, CHC 2 requires new development to protect or, where appropriate, restore form, features and fabric with contribute to the special interest.
- 7.13. The location, scale and depth of the structure along the edge of Cambridge Road is a valuable feature which contributes to the character of the ACA and its location to the rear of the protected structure. The proposed replacement for the two storey dwelling respects the original footprint along Cambridge Road, in keeping with those

outbuildings to the south, the dimensions of the adjoining main residence and the surrounding pattern of development and therefore does not have a negative impact on the built environment.

### **Access**

- 7.14. The proposed mews integrates a car parking space on the ground floor, accessed from Cambridge Road across the private laneway between the main road and the subject site. A 1.5m high stone wall bounds the subject site with Cambridge Road.
- 7.15. Further Information submitted to the planning authority included an autotrack analysis for access and regress between the site and Cambridge Road. The Transport Department had no objection to the proposal. I consider the proposal includes sufficient parking to comply with the requirements of Section 16.10.12 of the development plan and I consider the integration of the electric gates with the existing historic wall, facing onto Cambridge Road, is visually aesthetic.

### **Appropriate Assessment**

- 7.16. Having regard to the nature and scale of the proposed development within a serviced area and separation distance to the nearest 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 the conservation objectives of any European site.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

## **9.0 Reasons and Considerations**

Having regard to the Z2, residential conservation zoning objective, the pattern of development in the vicinity, and the scale and nature of the proposed development and the policies of the current Dublin City Development Plan 2016-2022, it is considered that subject to compliance with the conditions below, the proposed development would not seriously injure the residential or visual amenity of the area or have a negative impact on the character and setting of the Protected Structure.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed out in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The existing dwelling shall be occupied as a single residential unit.

**Reason:** To protect the amenities of property in the vicinity and comply with the objectives of the current development plan for the area.

3. All screen walls between the existing dwelling and the mews dwelling shall be 2 metres in height above ground level and constructed in concrete block, and shall be capped, and rendered on both sides in a finish that matches the external finish of the dwellings.

**Reason:** In the interest of residential and visual amenity

4. 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

5. 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.

6. 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

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Karen Hamilton  
Planning Inspector

13<sup>th</sup> of February 2019