



An
Bord
Pleanála

inspector's Report ABP-303305-18

Development	Removal of boundary wall, gates and shed and construction of 4 dwellings
Location	Site on Charlemont Lane at rear of no's 47 & 49, Howth Road, Clontarf, Dublin 3
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	3361/18
Applicant(s)	Gary Costello
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Theo & Ger Costello
Observer(s)	None
Date of Site Inspection	31 st May 2019
Inspector	Donal Donnelly

1.0 Site Location and Description

- 1.1. The appeal site is located on Charlemont Lane to the rear of No's. 47 & 49 Howth Road in Clontarf. Howth Road commences to the south-west at the junction with Fairview. The south-eastern side of Howth Road (No's. 1-41) is aligned with a terrace of 2-storey over basement Victorian dwellings. No's. 43 to 61 are semi-detached dwellings from the same period.
- 1.2. Charlemont Lane serves No's. 1-57 via a one-way arrangement from Clontarf Road and exiting onto Howth Road. The laneway is mostly aligned on its north-western side with rear garages. There are also a small number of commercial and residential premises. The south-eastern side of the laneway comprises an overgrown embankment of the railway line.
- 1.3. The site comprises an area 543 sq.m. that once was part of the rear gardens of No's. 47 & 49. There is a gated access from the laneway and a fence separating the site from No's. 47 & 49. Mature planting and hedgerow continue around the side and rear boundaries.

2.0 Proposed Development

- 2.1. Planning permission is sought for the removal of an existing boundary wall, gates and shed fronting Charlemont Lane and the construction of 4 no. 3-storey dwellings. Each dwelling will have a floor area of 123.5 sq.m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council issued notification of decision to grant permission subject to 13 conditions.
- 3.1.2. Condition 4 states that the single storey flat roof rear projection shall not be used as a balcony or private open space. Condition 8 requires the setting back of the boundary onto Charlemont Lane to provide a 5.5m wide shared surface.

3.2. Planning Authority Reports

3.2.1. The recommendation to grant permission in the final Planner's Report reflects the decision of the Planning Authority. The main points raised under the evaluation of the proposal in the initial Planner's Report are as follows:

- A degree of precedent has been set by Reg. Ref: 5521/07X1 for 5 terraced and semi-detached pitched roofed 2-storey dwellings.
- No 'local plan' has been provided for the laneway and there is no mechanism that can force private parties to cooperate bar via the planning application process.
- RTPD (Roads) seek a masterplan for mews developments along the laneway noting that there are concurrent proposals that involve 7 potential mews dwellings.
- Concerns regarding the piecemeal and uncoordinated development in the absence of improvements to the overall lane.
- Proposed design considered to be overly suburban and akin to earlier duplex blocks – more restrained contemporary approach preferable as proposed for mews units for No. 51, albeit a 2-storey version. May be scope to at least modify the roof profile.
- Use of vertical opes, double thick cills and deeper reveals can provide for better solids-to-voids ratio.
- Units should be uniformly finished in brick, and fascia, soffits, rainwater goods and windows finished in a dark treatment.
- Proposal compiles with minimum unit requirements of Quality Housing Guidelines.
- Residual gardens of No's. 47 & 49 will not be unduly overshadowed; however, proposed rear gardens may be persistently overshadowed.
- Separation distance to rear garden boundary of 10m should be increased or obviation measures applied. 1.8m side screen should be applied to sides of front 2nd floor balconies.

- Usable area of private open space is deficient and could be reduced further by external storage space.

3.2.2. Further information was sought from the applicant on issues relating to the upgrade of Charlemont Lane, elevational treatment and finishes, private open space provision, overlooking and usability of 2nd floor storage.

3.2.3. The applicant's response was assessed in a subsequent Planner's Report wherein it is noted that the Transportation Planning Division has no objection given that a 5.5m wide road can be provided for the majority of the lane.

3.2.4. A brick finish is now proposed, and private open space provision has been increased to 46-50 sq.m. Second floor balconies will have side screens and an 11m setback to the rear boundary will be provided. Second floor storage is also omitted. It is concluded that the proposal now accords with the development standards of the Development Plan.

3.3. **Third Party Observations**

3.3.1. Two submissions were received from the residents of No. 47 & 49 Howth Road.

4.0 **Planning History**

Dublin City Council Reg. Ref: 2470/17 (PL29N.248570)

4.1. Permission refused for 2 no. 3-bed 3-storey semi-detached dwellings with 2 no. parking spaces to the rear of No. 57 Howth Road.

4.2. The Board considered that the proposed development would represent overdevelopment of a restricted site, would establish an undesirable building line for future mews development, would seriously injure the character of the Residential Conservation Area, would be overbearing and would seriously injure the residential amenities of adjoining properties and the visual amenities of the area.

Dublin City Council Reg. Ref: 3982/17 (ABP-300481-17)

4.3. Permission refused for a 2-storey mews house and parking space to the rear of No. 11 Howth Road amending previously approved development under Reg. Ref: 4421/07 (see below).

- 4.4. The Board considered that the proposed development would be inconsistent with the permitted mews development on Charlemont Lane (Reg. Ref: 4421/07), in terms of architectural detailing and roof design and would seriously injure the visual amenities of the area and character of the conservation area.

Dublin City Council Reg. Ref: 3642/12 (PL29N.241757)

- 4.5. Permission granted for a 2-storey mews house with sunken roof garden to replace existing single storey commercial building to the rear of No. 31 Howth Road.

Dublin City Council Reg. Ref: 4421/07 (PL29N.228190)

- 4.6. Permission granted for 7 no. 2-storey 3-bed houses with attic accommodation to rear of existing houses at No's. 5, 7, 9, 11, 13, 25 & 27 Howth Road. A condition attached to this permission required the widening of the junction of Charlemont Lane and Howth Road prior to occupation of any of the proposed dwellings.

Dublin City Council Reg. Ref: 3388/18

- 4.7. Permission granted for the demolition of an existing garage in the rear garden of 51 Howth Road and the construction of 2 no. 2-storey, 3 bed semi detached mews houses and car parking within the site.

- 4.8. Conditions attached to this permission required the rear boundary line to be setback in order to provide 60sqm of rear private open space for each mews dwelling and the front boundary to be set back to provide a 5.5m wide shared surface.

Dublin City Council Reg. Ref: 3743/16

- 4.9. Permission refused for 2 no. 3-storey 3-bed semi-detached dwellings at the rear of No. 57 Howth Road for reasons relating to the inconsistency with Reg. Ref: 4421/07 and the establishment of an undesirable building line. Reference is also made in the refusal to the failure of the proposal to complement the character of the residential conservation area in terms of design and external finishes, and the impact on residential amenities in terms of overlooking, overshadowing and overbearing.

Dublin City Council Reg. Ref: 2229/17

- 4.10. Permission refused for a 2-storey mews house and street parking to rear of No. 11 Howth Road for reasons relating to inconsistencies with the permitted development (Reg. Ref: 4421/07) and failure to complement the character of adjoining permitted

mews developments with regard to building line, architectural detailing, roof pitch, ridge and eaves height. Reference was also made to the potential for overlooking.

Dublin City Council Reg. Ref: 3587/15

4.11. Permission granted for a 2-storey mews house at the rear of No. 1 Howth Road.

Dublin City Council Reg. Ref: 3642/12

4.12. Permission granted for a 2-storey mews house at the rear of No. 31 Howth Road.

5.0 Policy and Context

5.1. Dublin City Development Plan, 2016-2022

5.1.1. The appeal site is zoned "Z2" where the objective is *"to protect and improve the amenities of residential conservation areas."*

5.1.2. Development standards for mews dwellings are set out in Section 16.10.16.

5.2. Natural Heritage Designations

5.2.1. The South Dublin Bay and Tolka River Estuary SPA is located approximately 350m to the south-west of the site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third party appeal against the Council's decision was submitted by the residents of No. 49 Howth Road. The grounds of appeal and main points raised in this submission are summarised as follows:

- Proposed design is not well suited to the location and does not consider existing residents.
- There are four families in No's. 47 & 49 with full length windows in their kitchens facing the proposed houses.
- Proposed houses will have a total of 16 no. windows overlooking the existing family kitchens.

- No effort made to reduce the amount of overlooking by using skylights, altering orientation or frosting of windows.
- Height of proposed building will completely block morning sun, thereby losing the sustainable heating effect for the residents of No's. 47 & 49.
- Good example of carefully considered and appropriately scaled design is at the rear of No. 51 (Reg. Ref: 3388/18).
- Board requested to refuse permission or reduce the scale of the development and address overlooking by condition.

6.2. Applicant Response

6.2.1. The applicant responded to the third party appeal with the following comments:

- Distance of 28m has been provided between opposing 1st floor windows – landing windows can be opaque below eye level and 2nd floor bedroom windows can be similarly treated.
- 50% of upper floor windows are landing windows and 50% are bedroom windows – all of these bar 4 no. 1st floor bedroom windows can be opaque below eye level if desired by the Board.
- It is proposed to plant a number of semi-mature birch trees at the end of the gardens as shown on drawing – more can be added.
- Height of proposed dwelling will only be c. 1.3m above the 2-storey dwelling recently granted at No. 51 (Reg. Ref: 3388/18).
- Floor level of proposed dwellings is c. 1.7m below ground level of No's. 47 & 49.
- Only early morning sun will be affected by the proposed development.
- Design meets all required housing guidelines in terms of private open space, room sizes, car parking, etc.
- Upper floor will be c. 4.5m further east than proposed dwellings at No. 51 - proposal will cast no greater a shadow than the permitted dwellings.
- Refusal under Reg. Ref: 2470/17 is totally different to the current appeal.

- Correspondence appended from owners of No. 47 confirming that they do not object to the proposed dwellings.

6.3. **Planning Authority Response**

6.3.1. None received.

6.4. **Further Responses**

6.4.1. The appellants responded to the applicant's submission with the following comments:

- Proposed buildings' windows have extraordinary visibility to existing double height double width kitchen windows.
- 1.3m height increase over adjoining permitted dwelling is the difference between 4 families having their breakfast in sunlight at 7am or 8am.
- Two storey reduced window design is better suited to the location and more considerate of neighbours.
- Design solution for a smaller site at the rear of 47/49 is a smaller building.
- Lane is not suitable for 3 storeys.
- Appellants do not have a problem with homes being built on these sites – design is not suitable.

7.0 **Assessment**

7.1. I consider that the key issues in determining this appeal are as follows:

- Development principle;
- Suitability of site for proposed development;
- Impact on residential amenity;
- Appropriate Assessment.

7.2. Development Principle

- 7.2.1. The appeal site is zoned “Z2” where the objective is “*to protect and/or improve the amenities of residential conservation areas.*” The construction of “mews” dwellings within the rear gardens of existing properties would be acceptable in principle subject to an assessment of the impact of the proposal on residential amenity and compliance with other relevant Development Plan policies and objectives.

7.3. Suitability of site for proposed development

- 7.3.1. There are a number of issues that arise when considering the suitability of the site for the development proposed. These include the size and location of the site and the scale, design and visual impact of the proposed building, as well as the appearance and usage of the laneway accessing the site. I consider that it is also important to consider the surrounding pattern of development in the area in terms of the prevailing house type.
- 7.3.2. Section 16.10.16 of the Dublin City Development Plan, 2016-2022 sets out development standards for mews dwellings. It is stated that the Council will encourage a unified approach to the development of residential mews lanes, with dwellings generally being confined to 2-storeys. Three storey buildings incorporating apartments may be acceptable where the building is sub-ordinate in height and scale to the main building; where there is sufficient depth to ensure privacy; where an acceptable level of open space is provided; and where the laneway is suitable for the resulting traffic conditions. It is stated that new buildings should complement the character of both the mews lane and main building and the amalgamation/ subdivision of plots will generally not be encouraged.
- 7.3.3. The laneway in this case is aligned mostly with rear accesses and garages to residential and commercial properties on the north-western side. The character of the laneway is largely one of metal doors with concrete/ block surrounds. There is no architectural merit that may be found in a historic mews lane and little in the way of activity apart from auto-repair shops/ commercial premises. There appears to be only one recent mews development completed to date despite there being a number of previous grants of permission for individual and groups of mews dwellings. Notwithstanding this, I agree with the Case Planner that there is no mechanism that

can force private parties to cooperate to develop the laneway in a unified approach other than through the planning application process. I consider that guidance should therefore be taken from previous grants of permission for the purposes of establishing a consistent character along this laneway.

- 7.3.4. It should be noted that the proposed development would be the first 3-storey dwelling units granted permission on this laneway. Permission was refused at the rear of No. 57 for 3-storey dwellings on two occasions, most recently by the Board under PL29N.248570 for reasons relating to the creation of an undesirable building line, injury to the character of the residential conservation area, overbearing impacts and injury to residential and visual amenities. Permission appears to have been granted for nine other mews dwellings along the laneway, all of which are 2-storeys.
- 7.3.5. I would have concern that the proposal is for 3-storey houses as opposed to a 3-storey block containing apartments. As noted under Section 16.10.16, 3-storey buildings incorporating apartments may be acceptable on mews lanes. There is no provision under this section for 3-storey individual mews dwellings. I also consider that the introduction of 3 storey buildings and increased building height along the laneway would only be for the purposes of providing marginal improvement in terms of residential amenity for the occupants of the proposed dwellings. This should be measured against any impact on adjoining residential and visual amenities arising from the increased height. Furthermore, I am also of the view that the proposal for 4 no. large family dwellings does little to improve the variety of housing stock in the area. This dwelling type is predominant in the surrounding area and many are under-occupied.
- 7.3.6. Having regard to the above, I consider that the site would be better suited to 2-storey development that is consistent with the emerging pattern of development along the laneway. Smaller 1-bed or 2-bed dwellings at this location would also provide opportunities for downsizing, whilst 3-bed dwellings may be possible in a 2-storey format in accordance with the target gross floor area within the Quality Housing Guidelines (92 sq.m. for a 3-bed/ 5-person/ 2-storey house). I consider that the site is inappropriate for the development of 111.2 sq.m. dwellings that are well above the target floor areas for 3-bed dwellings when smaller dwellings can be accommodated on site that will improve variety in terms of dwelling type and which are consistent with the emerging pattern of development in the area.

7.3.7. Section 16.10.16 states that the subdivision of plots will generally not be encouraged. It should be noted, however, that No's. 47 and 49 are set on wider plots than the terraced dwellings on Howth Road to the south-west. The proposed plot widths to the rear are therefore similar to existing plots along the laneway.

7.4. Impact on residential amenity

- 7.4.1. The third party appellants are concerned with the potential impact of overshadowing and overlooking/ perceived overlooking from the proposed development. It is submitted that there are full length windows in kitchens of existing dwellings facing proposed houses that will have a total of 16 no. rear facing windows. The appellants also consider that the height of the proposed building will completely block their access to morning sunshine, thereby reducing the sustainable heating effect.
- 7.4.2. The first and second floors of the proposed dwellings will be located a distance of 22m from the rear elevation of the main dwellings at No's. 47 & 49. This accords with the advice contained in Section 16.10.16(j) of the Development Plan. The 22m separation distance would normally apply to opposing first floor windows. Owing to the differences in site levels, the 2nd floor windows are at a similar height to the first floor windows of the main dwelling, which are at a distance of 28m. The elevated nature of the 2nd floor of the proposed dwelling may increase the likelihood of overlooking of the amenity spaces to the rear of the main dwellings. Should the Board be minded to grant permission for the proposed development, this can be ameliorated through opaque glazing at this level.
- 7.4.3. The proposed dwelling is to be located south-east of the main dwelling and may therefore give rise to some overshadowing in morning times during winter months. I do not consider this to be significant having regard to the duration of the potential impact and the good level access to sunlight to the rear of the main dwellings at other times. As noted above, I consider that the appeal site would be better suited to 2-storey development, which would largely eliminate any perceived adverse overlooking or overshadowing impacts.
- 7.4.4. In terms of residential impact considerations for future occupants of the scheme, it would appear that the proposed dwellings are appropriately sized to comply with

guidance and that external amenity space accords with minimum standards set out in the Development Plan.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise.

8.0 **Recommendation**

- 8.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

9.0 **Reasons and Considerations**

Having regard to the emerging built form and character of the “mews” lane comprising predominately of 2-storey structures, and to the location of the site within an area zoned “Z2” where the objective is *“to protect and improve the amenities of residential conservation areas”*, it is considered that the proposed dwellings, by reason of their height, design and combined bulk, would form an obtrusive feature on the laneway that would be injurious to the visual amenities of the residential conservation area. Furthermore, the Board considers that the proposal for 3-storey family dwellings in a low-density area comprising of mostly similar type dwellings, would not contribute towards the diversification of residential typologies in the area. The proposed development would, therefore, set an undesirable precedent for similar type development and would be contrary to the proper planning and sustainable development of the area.

Donal Donnelly
Planning Inspector

12th June 2019