



An
Bord
Pleanála

Inspector's Report ABP-303338-19

Development	Construction of house.
Location	Rear, 53, Strand Road, Sandymount, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3774/18
Applicant(s)	Sheelagh Conway
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Ciaran Healy and Elaine O'Malley
Observer(s)	None
Date of Site Inspection	5 th April 2019
Inspector	Ronan O'Connor

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1.0 Site Location and Description

- 1.1. The site is located to the rear of No. 53 Strand Road and fronts onto an unnamed laneway off Gilford Avenue. The site is separated from the rear garden of No. 53 Strand Road by a stone boundary wall. To the south is a single storey outhouse building which is to the rear of No. 55 Strand Road and has frontage onto the laneway. Further south along the laneway is No. 57a Strand Road, a two-storey mews dwelling. There are also a number of garage structures fronting onto the laneway.
- 1.2. There is a single storey pitched roof building on the opposite site of the laneway, in use as a storage building by the Brabazon Trust. To the west of this building is No. 19 Gilford Road, which is the property of the Third Party Appellant.

2.0 Proposed Development

- 2.1. Construction of house.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Grant permission. There are no conditions of particular note.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer reflects the decision of the planning authority. Points of note are as follows:

- Balcony will provide for good quality residential amenity
- Will not cause excessive overlooking
- Design has taken into account the previous refusal and the house has been reduced in size.
- Terrace to the rear has also been omitted.

- Further information sought in relation to side facing bedroom window.
- Further information received reduced window by one third and this was considered acceptable.

3.2.2. Other Technical Reports

Drainage – No objection subject to conditions.

Roads and Traffic – No objection subject to conditions.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. One submission received. This issues raised are covered within the ground of appeal.

4.0 Planning History

Appeal Site

PA Reg Ref 4421/17 – Refuse – House. For one reason relating to scale, height and massing and overlooking. (Appeal Ref 301071-18 was withdrawn).

Surrounding Sites

Rear of No. 57 Strand Road

6247/04 – Grant – House

Rear of No. 59 Stand Road

6314/06- Grant – House

6413/06/x1 – Grant –Extension of Duration until 13th March 2017.

5.0 Policy and Context

5.1. Development Plan

The site is zoned in Z2 "To protect and/or improve the amenities of residential conservation areas".

Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- QH7 – Promote residential development at sustainable densities.
- QH8 – Promote the use of vacant or under-utilised sites.
- Policy CHC4 – To protect the special interest and character of all Dublin's Conservation Areas
- Section 16.2.1 Design Principles.
- Section 16.10.2 Residential Quality Standards – Houses – sets out standards to be achieved in new build houses.
- Section 16.10.3 Residential Quality Standards – Apartments and Houses.
- Section 16.10.16 Mews Dwellings. Provides guidance in relation to design and standards.
- Appendix 24: Protected Structures and Buildings in Conservation Areas.

5.1.1. The following Section 28 Ministerial Guidelines is of relevance to the proposed development.

- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (May 2009).
- 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') (2009).

5.2. Natural Heritage Designations

5.2.1. None.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development, a single dwellinghouse, 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

- 6.1.1. The Third Party Grounds of Appeal as submitted by Ciaran Healy and Elaine O'Malley, 19 Gilford Avenue, are as follows:

- Height and bulk make it unsuitable for the location.
- Would not protect the amenities of the conservation area.
- Contrary to Z2 zoning objectives.
- No heritage of mews dwellings on this laneway.
- No footpath, no street lighting and no vehicular turning space.
- Bins placed on the lane which further reduces accessibility.
- Plans are at odds with council guidelines.
- Laneway width is only 3.5m – falls short of the required 5.5m.
- Recent decision of the Council (Ref 2938/16 & ABP Ref PL29S.247009 - Mount Pleasant Avenue Rathmines) refused due to capacity of the rear access lane/Confirmed by An Bord Pleanála.
- Existing mews rarely, if ever, uses the parking space due to constraints of the lane.
- Proposal would generate further parking pressure.
- Overlooking and loss of privacy/The Brabazon Trust building does not block out the impact on appellant's property.

- Permission was refused for a very similar development in Feb 2018 (4421/17).
- Applicant objected to a mews development in 2008 (1459/08) raising similar concerns.

6.2. Applicant Response

6.2.1. The applicant's response to the Third Party Appeal is summarised below:

- Proposed house has been designed to avoid overlooking of nearby back gardens/no transparent windows to the rear thereby addressing the specific concerns expressed in the previous refusal.
- First floor bedroom window overlooks applicants own lands/This window was reduced in size so it is now only 790mm wide.
- House is set back in line with dwellings granted permission per Reg. Ref. 6247/04 (since constructed) and Ref. Ref. 6413/06 (not constructed) – provides sufficient space to achieve a width of 5.5m, as per Development Plan standard.
- Z2 Residential Conservation Areas are not the equivalent of Architectural Conservation Areas/None of the houses are Protected Structures
- Appellant's property is within a Z1 area.
- No evidence provided to support appellant's assertions.
- Planning supports higher densities including the National Planning Framework and the Dublin City Development Plan.
- Principle of mews dwellings on this lane has been accepted by the council/Permission granted for two mews houses to the rear of No. 57 and No. 59 one of which has been built.
- Previous refusal related to the detailed design and the principle of development was supported.
- Current proposal will result in the lane being widened to 5.5m in front of the site/no issue with emergency vehicle access/site is only 10m from the junction with Gilford Avenue.

- It is only recently that bins have been left on the lane/previously left to the front of the Brabazon Trust building on Gilford Road/if an issue applicant will request a reversion to previous practices.
- In relation to lighting there is a public lamp standard on Gilford Avenue directly opposite the laneway/applicant will install external wall lighting.
- Previous appeal referred to by the applicant (PA Ref 2938/16 & ABP Ref PL29S.247009 - Mount Pleasant Avenue, Rathmines) was refused by the Board because of the impact on the character and setting of Protected Structures – not on traffic congestion or safety grounds.
- In this instance the Roads and Traffic Division of Dublin City Council has supported the proposed development.
- Will not add to parking pressure – on site parking space has been provided/ have no information if the parking space within the other mews dwelling is used or not/reasonable to assume garages opening directly onto the lane would not have been constructed if they could not be used.
- In relation to design, previous proposal was for a pitched roof design, finished in metal cladding, per Reg. Ref 4421/17. Planning Authority/objectors clearly indicated that a flat roof was preferable/proposal is now for a flat roofed dwelling.
- Proposal is similar in scale and massing to the two houses previously permitted on the lane to the rear of No. 57 and 59/ is slightly smaller in floor area/is lower, narrower and shorter than at No. 57.
- Height is the same as the eaves of No. 19 Gilford Road/latter house has been extended at ground floor level and at attic level.
- Impacts on the amenity on the appellants is overstated.
- Side garden area will not be affected in any significant way by the proposed new house/Brabazon Trust building blocks any significant overlooking/windows to the side of No. 19 Gilford Avenue will not be overlooked/some of the concerns arise from a misunderstanding of the location of the proposed house.
- Applicant's previous objections were for a different form of development – extensions to rear.

- Applicant has a need for housing on this site due to a change in circumstances.

6.3. **Planning Authority Response**

6.3.1. None.

6.4. **Observations**

6.4.1. None.

6.5. **Further Responses**

6.5.1. A Further Response from the Third Party responding to the First Party submission has been received. This is summarised as follows:

- Section drawing submitted by the applicant appears to be incorrect/balcony will directly overlook appellant's property and will not be blocked by the Brabazon Trust building.
- Existing structures on the laneway are not recessed/contrary to the plan mentioned for the future widening of the laneway.

7.0 **Assessment**

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of Development
- Impact on Residential Amenity
- Design
- Access and Parking
- Other Issues
- Appropriate Assessment

7.2. **Principle of Development**

- 7.2.1. The site is zoned Z2, and there is an existing mews dwelling constructed to the rear of No. 57 Strand Road (PA Reg Ref 6247/04) and a previous permission for a mews dwelling to the rear of No. 59 Stand Road, which was not constructed and has now lapsed (PA Reg Refs 6314/06 and 6413/06/x1). Residential development would, therefore, be acceptable in principle, subject to the considerations below. It is noted, however, that the primary objective of the Z2 zoning (residential conservation area) is to ensure the protection and improvement of the amenity prevailing in the area. In this respect I note that specifically, the Z2 General Objective seeks to protect from unsuitable new developments, or works that would have a negative impact on the amenity, or architectural quality of the area.
- 7.2.2. I refer to the previous refusal PA Reg Ref 4421/17 which was refused for one reason relating to scale, height and massing and overlooking (A subsequent appeal - ABP Ref 301071-18 - was withdrawn). The principle of a mews dwelling was accepted by the planning authority when considering this previous proposal.

7.3. Impact on Residential Amenity

- 7.3.1. The appellants state that the proposal will overlook their property, in particular their side garden and side windows, at No. 19 Gilford Avenue, and that the existing single storey Brabazon Trust building will not block views towards their property.
- 7.3.2. The applicants state that no overlooking will occur and consider that the concerns arise due to a misunderstanding in relation to the location of the proposed dwelling house.
- 7.3.3. The distance from the existing appeal site boundary to the closest point of the boundary at No. 19 Gilford Avenue is 12m. The proposed dwelling, with the balcony at first floor level is set in 1.9m from the site boundary. The ridge height of the single storey building to the west of the site, located in between the appeal site and the appellant's property is 6.18m. The balcony sits at first floor level, and direct views from the balcony towards No. 19 Gilford Avenue will be obscured by the existing single storey building. As such I do not consider any overlooking from the proposed balcony of the side garden of No. 19 Gilford Avenue will occur. I do note that there is a side facing window at first floor level of No. 19, which faces east towards the site, and over the existing single storey structure, allowing views to and from the proposed dwelling house at first floor levels. However this window is set back at least

16m from the proposed balcony and I do not consider that any material overlooking will result.

- 7.3.4. In relation to any potential overlooking of other neighbouring sites, I note there is a window proposed at first floor level facing north towards the narrow strip of lane to the rear of No. 53, between the appeal site and the rear of No. 51. This strip of land is within the ownership of the applicant. This was a matter of initial concern at application stage, and the planning authority requested Further Information on same. The applicants responded by reducing the size of the window and noted that the positioning of the window was due to potential overlooking concerns to the rear of the houses on Strand Road. It is my view that the window is set back sufficiently from the northern boundary of the appeal site, and from the boundary of the rear of No. 51 Strand Road, so as not to materially overlook the latter property and to preserve the development potential of same.
- 7.3.5. Overlooking of the rear garden of No. 55 Strand Road was a concern in relation to the previous proposal, as there was a terrace proposed in close proximity to No. 55. This has now been omitted from the current proposal and as such overlooking of No. 55 is no longer a concern.

7.4. **Design**

- 7.4.1. Section 16.10.16 'Mews Dwellings' of the Dublin City Development Plan 2016-2022 states that new buildings should complement the character of both the mews lane and the main building with regard to scale, massing, height, building depth, roof treatment and materials.
- 7.4.2. The appellants contents that there is no heritage of mews development on this lane and it is unsuitable for such development.
- 7.4.3. The applicants note the existing building at No. 57a (PA Reg Ref 6247/04) and the previous permission for a mews to the rear of No. 59 (6314/06 and 6413/06/x1 - which has now lapsed) and contend that, as such, there is a precedent for such development.
- 7.4.4. The proposal broadly replicates the existing mews dwelling at No. 57a and as such is appropriate having regard to the height, scale and massing. The design approach is a contemporary one and is in keeping with No. 57a. The previous concerns of the planning authority with regard to the previous proposal related to the pitched roof

element which has now been omitted, and a flat roof structure is now proposed. The height relative to the existing mews dwelling at No. 57a was also of concern and this has now been reduced, and is in line with the height of No. 57a. The planning authority are now satisfied the previous concerns relating to design have now been overcome in granting the proposal. I share this view and consider the revised proposal more in keeping with existing development along the laneway.

7.5. Access and Parking

- 7.5.1. The appellants state that the laneway is too narrow to accommodate the development and it is not in line with development plan standards. Concerns in relation to emergency access and parking pressure have also been raised.
- 7.5.2. The applicants state that no objection was received from the Roads and Traffic Division in relation to the proposal. It is further noted that the mews dwelling is set back from the boundary of the appeal site to accommodate the required 5.5m width for mews dwellings, as per other development on the laneway.
- 7.5.3. While I concur that the laneway is relatively narrow, the setback proposed by the applicants achieves the required 5.5m as per Section 16.10.16 (i) of the Development Plan, and precedent for such mews development has already been established by the recently constructed and consented mews dwellings on the laneway.
- 7.5.4. The proposal includes one off-street parking space and therefore will not result in a material increase in parking pressure. The appellants have questioned the usability of this space. However I do not share these concerns and I consider that the space can be utilised adequately.

7.6. Other Issues

- 7.6.1. Flooding – An Engineering Report which included a Flood Risk Assessment was submitted at application stage. The site is within an area at risk from coastal flooding. Flood mitigation measures are proposed including 2m high demountable flood protection barriers. The planning authority requested, by way of condition, a revised Flood Risk Assessment that took account of the impact of climate change as well as additional flood mitigation. I consider this condition appropriate and should be re-imposed, should the Board be minded to grant permission.

7.7. **Appropriate Assessment**

- 7.7.1. Having regard to the nature and scale of the proposed development, the construction of a single dwelling house, within a serviced area, and having regard to the 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. Grant permission.

9.0 **Reasons and Considerations**

Having regard to the provisions of the Dublin City Development Plan 2016 -2022, and to the nature, and scale of the proposed development, it is considered that, subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity nor would it give rise to a traffic hazard. 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 31st October 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. 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.

3. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

4. The following requirements shall be complied with:
 - (i) The developer complying with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 (available from www.dublincity.ie Forms and Downloads).
 - (ii) The drainage for the proposed development shall be designed on a completely separate foul and surface water system with a combined final connection discharging into Irish Water's combined sewer system.
 - (iii) The development shall incorporate Sustainable Drainage Systems in the management of surface water, with a minimum requirement of a 2 stage treatment approach. Full details of these shall be agreed in writing with the planning authority prior to commencement of construction.
 - (iv) The development shall provide additional flood mitigations measures including the evacuation and emergency plan. Full

details of these shall be agreed in writing with the planning authority prior to commencement of construction.

- (v) The developer shall submit a revised flood risk assessment for the proposed development addressing - The impact of 20% Climate Change as per the “Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment”. This will include the changing of the flood barriers height.
- (vi) The outfall surface water manhole from this development must be constructed in accordance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.
- (vii) All private drainage such as, downpipes, gullies, manholes, armstrong junctions, etc. are to be located within the final site boundary. Private drains should not pass through property they do not serve.

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

5. The following requirements shall be complied with:

- (i) Vehicular entrance shall be at least 2.5m or at most 3.6m in width and shall not have outward opening gates.
- (ii) Prior to commencement of development, proposals for boundary treatment along the side and rear boundaries shall be submitted to and agreed in writing by the Planning Authority.
- (iii) The area between the existing site boundary and the new set back boundary shall be surfaced and maintained by the developer and the developer shall, if requested, cede this area to the Planning Authority at a future date.
- (iv) The applicant shall ensure that the laneway is kept clean and free from all obstructions to vehicular and pedestrian traffic during construction works on the proposed house.
- (v) All costs incurred by Dublin City Council, including any repairs to

the public road and services necessary as a result of the development, shall be at the expense of the developer.

- (vi) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

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

- 6. Notwithstanding the provisions of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended), no extensions, garages, stores, offices or similar structures, shall be erected without the prior grant of planning permission.

Reason: In the interests of residential and visual amenity and in order to ensure sufficient private open space be retained for the new dwelling.

- 7. 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.

Rónán O'Connor
Planning Inspector

05th April 2019