



An
Bord
Pleanála

Inspector's Report ABP-301819-19

Development	House construction and extension.
Location	Desmar, 15 Railway Road, Dalkey, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D18A/1119
Applicant(s)	Keith Jackson & Justyna Becko
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	As above
Observer(s)	Noel & Claudia O' Dwyer
Date of Site Inspection	20 th May 2019
Inspector	Kenneth Moloney

Contents

1.0 Site Location and Description.....	3
2.0 Proposed Development.....	3
3.0 Planning Authority Decision	4
3.2. Planning Authority Reports	4
3.3. Internal Reports;.....	5
3.4. Third Party Observations	5
4.0 Planning History.....	6
5.0 Policy Context	6
5.1. Development Plan.....	6
6.0 The Appeal.....	6
7.0 Responses	8
8.0 Assessment.....	11
9.0 Recommendation.....	16

1.0 Site Location and Description

- 1.1. The appeal site is a mid-terrace residential property located on Railway Road, approximately 50 metres from the Dalkey dart station in Dalkey village, Co. Dublin.
- 1.2. The property is single storey over a raised basement and is a period property.
- 1.3. The property is currently in use as Air B&B.
- 1.4. The property is 3-storey in height to the rear and there is a single storey outhouse in the rear garden adjacent to the rear building line.
- 1.5. The level of the rear garden rises from the property initially up 3 no. steps and then a further 2 no. steps and the rear garden (grassed area) rises gently to the rear of the garden.
- 1.6. The rear garden is long and narrow and is enclosed by hedging on both sides.
- 1.7. The rear garden has a pedestrian gate to the rear which provides access to St. Patrick's Avenue.
- 1.8. There are overhead power lines that traverse the rear of the garden.

2.0 Proposed Development

- 2.1. Planning permission is sought for the following;
 - Demolition of existing single storey structure in rear garden
 - Part single storey and part two-storey extension to rear
 - Construction of new single storey mews to rear
 - New window to second storey rear elevation
- 2.2. The existing single storey extension proposed for demolition has a floor area of 10 sq. m.
- 2.3. The proposed rear extension has a ground floor area of 28 sq. metres and a first-floor area of approximately 14 sq. metres.
- 2.4. The proposed mews is single storey in height and the overall floor area of the structure is 52 sq. metres. The proposal includes a patio area to the rear of approximately 6.89 sq. metres.

2.5. The proposed window to the rear elevation is located at second floor level.

3.0 Planning Authority Decision

3.1. Dun Laoghaire County Council decided to **refuse** planning permission for 2 no. reason as follows;

1. Having regard to its layout and design with a general reliance on a limited and shared private amenity space, the limited separation distance to the main dwelling and the substandard off-street car parking provision, it is considered that the proposed mews dwelling would fail to accord with and be contrary to the provisions of Section 8.2.3.4 (x) 'Mews Lane Development' in the Dun-Laoghaire-Rathdown County Development Plan, 2016 – 2022, and would set an undesirable precedent for future development. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

2. Having regard to the scale and form of the proposed double storey rear extension, it is considered that the proposed development would unreasonably compromise the residential amenity of properties within the vicinity by reasons of overshadowing and by being visually overbearing and would set a poor precedent for future development in the area. It is considered that the proposed development would seriously injure the amenities, or depreciate the value, of property in the vicinity and is therefore considered to be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. The main issues raised in the planner's report are as follows;

Area Planner

- It is proposed to provide a granny flat with a shared amenity space.
- It is acknowledged that the applicant has a family connection to owners of no. 15 Railway Road.
- However, the design of the proposed residential unit is not consistent with a granny flat proposal.
- The proposal shall be assessed in accordance with Section 8.2.3.4 'Mews Lane Development' of the County Development Plan.
- The proposal fails to comply with Section 8.2.3.4 'separation distance' and has insufficient 'private amenity space'.
- Inadequate car parking provision.
- The proposed extension will extend beyond the building line of the property to the north at ground and first floor level and will therefore represent a visually prominent feature.
- The proposal would unreasonably compromise the residential amenities of the adjoining property.

3.3. Internal Reports;

- Conservation Officer; - No objection to the design as proposed. The structure will not appear as prominent on the streetscape, relative to the previous proposal, as such no significant impacts on ACA.
- Drainage Planning; - No objections.
- Transportation Planning; - No objections subject to conditions.

3.4. Third Party Observations

There is one third party submission and the issues are similar to those raised in the third party appeal submission.

4.0 Planning History

- L.A. Ref. D18A/0754 – Planning permission **refused** for a two-storey extension to the rear and a 2-storey mews to the rear. The reasons for refusal (a) failure to accord with provisions of Section 8.2.4.4 (x) ‘Mews Lane Development’ in the Dun-Laoghaire-Rathdown County Development Plan, 2016 – 2022, (b) overbearing on adjoining residential amenities and represents over development, (c) overshadowing and overlooking having regard to proximity to northern site boundary.

5.0 Policy Context

5.1. Development Plan

The operational Development Plan is the Dun Laoghaire-Rathdown County Development Plan, 2016 – 2022.

The appeal site is zoned Objective A 1 ‘to protect and-or improve residential amenity’.

Section 8.2.3.4 of the County Development Plan sets out guidance in relation to

- Extensions to dwellings
- Family member / granny flat
- Mews Lane Development

6.0 The Appeal

6.1. A first party appeal was submitted. The submission includes a description of the site context, planning policy, planning history, details of the proposed development and the grounds of appeal. The following is the summary of the grounds of appeal;

- The proposal is well designed by A2 Architects.

- The site previously was the subject of a larger scale proposal (L.A. Ref. 18A/0754).
- It is acknowledged that the Local Authority gave some consideration whether the subject proposal can be considered as a 'granny flat' or 'mews development'.
- It is contended that there are strong national policies to encourage the need for densification given proximity to public transport. These policies should override local development plan standards in relation to car parking provisions.
- The site is located central to many amenities and facilities.
- The proposed house is modest in size equal to a one-bed apartment in size. However, the proposed residential unit has more generous amenities than a 1-bed apartment including patio area and private open space (75 sq. m.).
- Established housing stock in the immediate area is typically small in floor area with small rear yards.
- The minimum County Development Plan separation distance for opposing windows is 15m. The proposed separation distance is 19m.
- The appeal submission includes a revised proposal setting back the first-floor window of the proposed extension by 660mm resulting in a separation distance more than 16m.
- It is considered that the Board could revise the proposal by condition.
- It is contended that the requirement for off-street car parking at this location would be contrary to good planning.
- The requirement of an off-street car parking space would result in the loss of an on-street car parking space.
- Section 8.2.4.5 facilitates the provision of reduced car parking standards.
- Recent decisions in relation to infill developments have dispensed of the need to provide off-site car parking due to the proximity of quality public transportation, i.e. D18A/0028 and ABP-301313-18.

- The length of the ground floor extension compares to the existing single storey outhouse structure.
- There is a much larger extension to the rear of no. 13 Railway Road which is approximately 8.6m in length.
- The proposed two-storey extension has a width of only 4m.
- The Planning Authority expressed concern in relation to the impact of the previous proposal on the neighbouring property no. 16 Railway Road.
- The current extension to the rear of no. 16 Railway Road has a length of 4.7m. It is acknowledged that there was an error in relation to illustration of the previous extension to rear of no. 16 Railway Road.
- There is a large extension to the rear of no. 13 Railway Road.
- The overshadowing impacts have been assessed and are addressed in a submitted shadow diagram. The proposed development would not seriously injure the amenity of the adjoining property by overshadowing.

7.0 Responses

- 7.1.1. The following is the summary of a response submission submitted by the residents of no. 16 Railway Road.

Contrary to Development Plan Standards

- The depth of the proposed two-storey extension is inconsistent with established two-storey extensions locally.
- The depth of the extension to the rear of no. 16 Railway Road is 4 metres.
- The proposal is within 1.6m of the boundary wall and will cast shadows to the rear garden of no. 16 Railway Road.
- No shadow analysis was submitted with the planning application.
- The proposal provides a mass wall to the side no. 14 Railway Road which will have a significant overbearing impact.
- The proposed large window will result in overlooking.

- The existing extension to the rear of no. 16 Railway Road is inaccurately represented on the submitted drawings.
- The private open space provision is insufficient for a 5-bedroom house and a mews development.
- No details are provided for the external finishes.

Contrary to the standards for Backland Development and Mews Development

- The proposal fails to comply with the minimum set back standards. The distance only measures 13.585m (drawing P.200).
- There is no wall separating the proposed mews house from the main house. As such there will be direct overlooking. No. 14 & no. 16 would look directly into the living room of the proposed mews house.
- Both the proposed dwelling and the existing house fall short of meeting the minimum private open space requirements.
- The proposal only provides a single car parking space for a commercial B&B and this will involve reversing cars onto a busy road when exiting.

Contrary to Architectural Heritage Guidelines

- The proposal is at odds of the well-established square and streets associated with St. Patrick's Avenue.
- The proposal is therefore inconsistent with the guidance in the Architectural Heritage Guidelines for ACA's.

Contrary to the Zoning objective

- The proposed development would not represent an improvement to residential amenities but a diminution in the residential amenity enjoyed by existing properties.
- The proposed development is therefore contrary to the zoning objective.

Overdevelopment of the site

- The proposed first floor extension is too deep. A maximum distance of 4.4m should be set for the first-floor extension.
- Should the ground floor extension be reduced by 1.415m then the minimum distance of 15m between the main house and the mews can be achieved.
- The proposed mews structure has significant site coverage.
- The open space provision does not comply with minimum standards.
- It is considered that a mews development of this scale should be sited in the rear gardens of no. 14 and no. 15 Railway Road.

Inappropriate notices

- It is contended that the proposed development will represent a 5-bedroom B&B which is commercial in scale and not correctly described in the planning documentation.
- The proposal would have Fire Safety Certificate and Disability Access Certificate requirements.

Inaccuracies in the Documentation submitted

- Comments in relation to densification in accordance with national policy relate to new housing rather than infill development.
- The proposed house is not a granny flat but a separate house.
- The single storey extension to the rear of no. 16 Railway Road is only 4m deep.
- It is contended that there are inaccuracies in the submitted drawings. These include details of height and depth of the neighbouring extension to no. 16 Railway Road.

Alternative Proposals

- The extension to the main house could be reduced in length.

- There is an established depth to rear extensions to the rear of no. 17, 18, 19, 20 Railway Road.

7.1.2. Second Party Response

The Planning Authority submitted a response stating that they had no further comments.

8.0 **Assessment**

The main issues for consideration are as follows;

- Principle of Development
- Compliance with Development Plan standards
- Impacts on established residential amenities
- Car Parking Standards
- Architectural Heritage

8.1. **Principle of Development**

8.1.1. The appeal site is zoned Objective A '*to protect and-or improve residential amenity*'.

The established use on the appeal site is residential, and the immediate area is a residential area, therefore residential would be acceptable in principle on the appeal site.

8.1.2. The proposed development is a two-storey extension to the rear of an existing house to provide for a 5-no. bedroom house. The proposed development also includes a single storey mews house situated to the rear garden of the existing house.

8.1.3. It is also worth considering national planning policy, including the National Planning Framework, 2018, and Sustainable Residential Developments in Urban Areas, 2009, as both policy documents promote and encourage higher residential densities within

urban areas and particularly urban areas serviced by high capacity public transportation. The national policy to increase residential densities is mirrored in the policies in the County Development Plan, i.e. policy objective 'RES3 Residential Density' of the Dun Laoghaire-Rathdown County Development Plan, 2016 – 2022.

8.1.4. Overall, having regard to the zoning objective, the principle of the proposed development is acceptable subject to safeguarding established residential amenities.

8.2. **Compliance with Development Plan standards**

8.2.1. I would concur with the Local Authority planner's report that the proposed residential unit is more akin to a mews development rather than a 'granny flat' proposal. The proposed residential unit is a fully independent dwelling and therefore would not be consistent with Section 8.2.3.4 (iii) 'Family Member / Granny' Flat Extension of the County Development Plan.

8.2.2. Section 8.2.3.4 (x) of the County Development Plan sets out the relevant standards for 'Mews Lane Development' and this includes the following;

- Length of rear garden is less than 25 metres.
- Not less than 15 metres separation distance
- Off-street car parking provision required
- Private open space not less than 48 sq. metres.

8.2.3. In relation to the relevant standards above I will review car parking separately below. However, in terms of private open space provision, the proposed mews development has a patio area to the rear (west) of less than 7 sq. metres and has a shared private open space with the main house of 75 sq. metres. The proposal therefore fails to provide adequate provision of private open space.

- 8.2.4. The proposed set back distance, in accordance with submitted drawing P.200, is approximately 14 metres which is below the minimum standard. A revised drawing submitted with the appeal submission¹ shows a setback distance of 16.1 metres. This revised set back distance is achieved by setting back the proposed two-storey extension and also partially setting back the east facing building line of the proposed mews.
- 8.2.5. The proposed development does not include a dividing site boundary wall / fence between the site of the existing house and the site of the proposed mews development. I would consider that a boundary wall / fence would mitigate potential overlooking.
- 8.2.6. Overall the proposed mews would fail to fully comply with Section 8.2.3.4 (x) of the County Development Plan and would therefore represent overdevelopment of the site.

8.3. **Impacts on Residential Amenities**

- 8.3.1. In terms of considering impacts of the proposed development on adjoining residential amenities there are two considerations, firstly the impact of the proposed mews development and secondly the impact of the proposed two-storey extension to the rear of no. 15 Railway Road.
- 8.3.2. In relation to the proposed mews development I have outlined above that the proposal would fail to meet some of the development standards of the County Development Plan, i.e. private open space provision. As such the proposed mews development would represent, in my view, over development of the subject site. The overdevelopment of a site will have adverse implications for adjoining residential amenities.

¹ Drawing ref. P206

- 8.3.3. The minimum set back distance and the inadequate provision of private open space would, in my view, result in an unacceptable level of overlooking towards established residential amenities of no. 14 and no. 16 Railway Road. It is also notable that the gradient of the appeal site slopes gently upwards to the rear (west) of the subject site and as such the proposed mews development is situated on higher ground than the ground floor levels of the existing houses on Railway Road. The proposed mews development, having regard to the inadequate separation distance would seriously injure residential amenities by reason of overlooking.
- 8.3.4. The appeal submission included a revision to the proposed two-storey extension. The original depth of the proposed two-storey extension was 5.7 metres from the original rear elevation which would project beyond the neighbouring extension at no. 16 Railway Road. The revised proposal² sets back the proposed extension by approximately 700 mm as such the revised depth of the proposed extension is approximately 5 metres.
- 8.3.5. The proposed ground floor extension is the full width of the rear garden, i.e. 6 metres, whereas the proposed first floor extension has a proposed width of approximately 4 metres. The overall height of the proposed two-storey extension is approximately 5.4m above ground level.
- 8.3.6. I would note that the appeal submission includes shadow diagrams which illustrate that the proposed extension will have no significant overshadowing impact on the amenities of no. 16 Railway Road. The proposed development is situated north of no. 14 Railway Road and as such will have no overshadowing impacts.
- 8.3.7. Overall, I would conclude, having regard to the modifications of the proposed two-storey extension, that the proposed two-storey extension would be compatible with the pattern of development locally and would not duly impact on established residential amenities.

² Submitted with the appeal submission

8.4. **Car Parking Standards**

- 8.4.1. The appeal submission refers to a precedent, i.e. appeal ABP-301313-18 whereby car parking standards were relaxed having regard to the proximity of quality public transportation. I would note that this referenced appeal site is also within the Dun-Laoghaire Rathdown County Council area.
- 8.4.2. I would also note a recent Board decision ABP-302927-18 whereby the Board issued a grant of permission for a side garden house without the provision of off-street car parking. This site is also within the functional area of Dun-Laoghaire Rathdown County Council. The Board concluded, in this case, that given the proximity of quality public transportation that the relaxation of car parking standards was acceptable.
- 8.4.3. Section 8.2.4.5. of the County Development Plan states that the Local Authority will consider car-free housing on small scale in areas located close to high quality public transportation.
- 8.4.4. The appeal site is located within a 2-minute walk of Dalkey dart station and Dalkey village. Therefore, I would conclude, based on the location of the proposed development and the precedents referred to above that relaxing the car parking standards in this instance is acceptable.

8.5. **Architectural Heritage**

- 8.5.1. The proposed development is located within the Dalkey Architectural Conservation Area.
- 8.5.2. I would note that the A/Conservation Officer, in her report, has no objections to the proposed development on conservation grounds.

- 8.5.3. The proposed development is located to the rear of the existing residential property and therefore would not be visible from Railway Road and I would conclude that the proposal would not adversely impact on the Architectural Conservation Area.

9.0 Recommendation

I recommend a split decision in this case, (a) permitting the demolition of the single storey structure, the construction of a 2-storey extension and provision of a new rear elevation window and (b) refusing for a mews development.

(a) REASONS AND CONSIDERATIONS

The permission is granted having regard to the nature and scale of the development, it is considered that subject to compliance with conditions set out below, would be acceptable in terms of residential and visual amenities of the area. The proposal would therefore be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application and as amended on the 27th February 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

3. Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

4. The house to be used as a single dwelling unit.

Reason: In the interest of clarity.

5. That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

6. 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 the 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 interest of amenities and public safety.

(b) REASONS AND CONSIDERATIONS

1. The proposed mews development would fail to comply with Section 8.2.3.4 (x) 'Mews Lane Development' of the Dun Laoghaire-Rathdown County Development Plan, 2016 – 2022, in terms of private open space provision. As such the proposed development would represent substandard development and would represent overdevelopment of the site. The proposed development would seriously injure the residential amenity of the area and would, therefore be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed mews house by reason of its scale and proximity to adjoining residential properties, would be visually obtrusive, would overlook and would seriously injure the residential amenities of the adjoining properties. As such the development would detract from the amenities of adjoining properties, would be out of character with, and fail to respect the established pattern of development in the vicinity, and would set an undesirable precedent for similar type of development in the area. The proposed mews house would, seriously injure the residential amenity of the area and would, therefore be contrary to the proper planning and sustainable development of the area.

Kenneth Moloney
Planning Inspector
29th May 2019

