



An  
Bord  
Pleanála

## Inspector's Report ABP 304871-19.

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<b>Development</b>	Two, two bed two storey mews with garage and vehicular access from Grosvenor Lane including gated arch allowing access to rear of existing houses.
<b>Location</b>	Nos 62 and 63 Leinster Road, Rathmines, Dublin 6. (Protected Structures.)
<b>Planning Authority</b>	Dublin City Council
<b>P. A. Reg. Ref.</b>	2810/19
<b>Applicant</b>	Jim Flynn
<b>Type of Application</b>	Permission.
<b>Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party X Refusal
<b>Appellant</b>	Jim Flynn.
<b>Date of Site Inspection</b>	8 <sup>th</sup> September, 2019.
<b>Inspector</b>	Jane Dennehy.

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## 1.0 Site Location and Description

- 1.1. The site has a stated area of 1,137 square metres and is that of two terraced, two storey, two bay over garden semi/basement level, mid nineteenth century houses with front and rear gardens located along the northern side of Leinster Road. The houses have non-original large returns to the rear constructed on foot of a grant of permission under P. A. Reg. Ref. 2715/99, the original returns having been removed. This grant of permission also provided for interventions to the party wall which is part of historic construction with new sections and the addition of new capping. There is an opening in this wall and the hedgerow at the boundary which facilitates two-way access for the two houses for the parking at the rear of No 62 Leinster Road.
- 1.2. The rear, (northern) boundary faces onto with Grosvenor Lane, a services lane. On it there which there is vehicular access for No 62 Leinster Road via a steel gate to the on-site parking within the rear garden. There is a concrete block wall on the frontage to Grosvenor Lane at the rear of No 63 Leinster Road. Both houses have been in multiple occupancies with the rear garden are of No 63 containing some sheds and storage units.
- 1.3. The two houses are within a group of four houses at each end of which there are granite quoins a shared parapet and similar windows and doors and doorcases. A granite staircase with cast-iron railings to the sides serve the main entrances to the houses and there are separate entrances beneath the staircase to the garden level (semi basement) accommodation. There are front gardens set behind cast iron railings mounted on granite plinths and pedestrian gates on the site frontage and rear gardens extending as far as the boundary with Grosvenor Lane, a service lane to the rear.
- 1.4. No 60 Leinster Road is to the east side of No 61 Leinster Road which adjoins the application site these properties have rear boundaries onto Grosvenor Lane. It is of note that under P.A. Reg. Ref. 3184/19, the planning authority decided to refuse permission for construction of a 2-bed apartment over a 1-bed apartment in the rear garden of No. 60 Leinster Road, a Protected Structure. (Details are available in para. 4.2 below.)
- 1.5. Grosvenor Lane which intersects with Grosvenor Square to the east of Grosvenor Square is irregular to the extent that the front building line on the northern side is

staggered at various stages. There is a mix of rear entrances, to the rear of residential properties, mews developments built in rear gardens and 'lock ups' some of which may be in light industrial use. The lane which forms a *cul de sac* to the west end, is in use for vehicular and pedestrian access and for casual carparking. Grosvenor Lane also extends eastwards from the opposite side of Grosvenor Square at the rear of period properties and there are some mews dwellings interspersed along its frontage.

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicate proposals for the construction of two 'mews' houses the combined total stated floor area of which is 231.5 square metres setback from the Grosvenor Lane frontage at the end of the rear gardens. There are also individual vehicular entrances of Grosvenor Lane opening onto one garage parking space for each dwelling, the footprint of the garage for Dwelling No 1 being stepped forward within the site. At the rear of each of the proposed mews houses rear gardens with a stated area of thirty square metres are shown on the plans.
- 2.2. A shared vehicular double timber door is shown on the plans centre of the frontage onto Grosvenor Lane. It forms an archway beneath the proposed first floor accommodation and it is to serve as an entrance to four parking spaces laid out at the rear of the original houses adjacent to an area annotated as semi private open space at each side and rear of No 63 Leinster Road.

## 3.0 Planning Authority Decision

### 3.1. Decision

By order dated, 11<sup>th</sup> June, 2019 the planning authority decided to refuse permission on the basis of the reason reproduced in full below:

*“ The proposed development is located in an area which is zoned ‘Residential Neighbourhood (Conservation Areas) – Z2’ with a corresponding land use zoning Objective ‘to protect and/or improve the amenities of residential conservation areas’ The proposal for the addition of two houses in the rear*

*gardens of 2 protected structures within vehicular access to be provided through the mews dwellings, and for the provision of surface parking directly adjacent to the protected structures, would result in significant encroachment into the curtilage of the protected structures and would consequently result in minimal garden settings and an unacceptable impact on the setting and character of the protected structures and the adjoining protected structures. The proposed development would undermine Policy CHC2 ('protect the special interest of the protected structure'), and CHC4 ('protect the special interest and character of Dublin's conservation areas'). The development would also result in a substantial loss of historic fabric with the removal of the boundary walls to permit excessive carparking which would further detract from the protected structure within a residential conservation area. The proposed development would also result in a constrained arrangement of vehicular access. The proposed development would therefore be contrary to the proper planning and sustainable development of the area."*

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The planning officer indicated concerns as to loss of historic fabric, adverse impact on the setting of the existing houses and the architectural character of the area. He also indicates concerns as to insufficient quality and quantity of private/semi open space provision, adverse impact on the residential amenities of existing dwelling units and of the future occupants.

#### **3.2.2. Other Technical Reports**

The reports of the Drainage Division and the Transportation Planning Division indicate no objection subject to conditions.

The report of the Conservation Officer indicates no objection to the proposed structures in principal, but it is stated that the proposed amalgamation of the two plots is unacceptable in that the erosion of the historic building plots and gardens and boundary walls would adversely affect the architectural character and setting of the structures and Policy CHC 2 (a) and (d) and section 11.1 and 16.22.2 of the CDP

## 4.0 Planning History

- 4.1. **P. A. Reg. Ref. 2715/99:** Permission was granted for reduction from seven dwelling units to six at No 63 and nine units to six at No 62 with associated internal alterations and for construction of two three storey returns to the rears to replace the existing returns. The proposals also included rearrangement of the existing seven carparks at the rear including reinstatement of railings, gate and plinth wall at the front of No 62 Leinster Road. This grant of permission was taken up.
- 4.2. As mentioned in para. 1.5 above, it is of note with regard to consideration of the subject application and appeal, that under P.A. Reg. Ref. 3184/19, the planning authority decided to refuse permission for construction of a 2-bed apartment over a 1-bed apartment in the rear garden of No. 60 Leinster Road. The proposed development provided for a two-storey development including a screened first floor terrace, a rooflight and 2 no. car parking and cycle spaces with access to Grosvenor Lane. (the application also included proposals for the retention and repair works to historic stone works on boundary walls and all associated site works was refused on 31<sup>st</sup> July 2019. The reason for the planning authority's decision is quoted in full below:

*“It is considered that the site of the proposed development by reason of its configuration and its relationship with adjoining properties is unsuitable and restricted for the residential development in the form proposed. The proposed mews apartment development would create a visually obtrusive and dominant form when viewed from the main house and the adjacent property by reasons of its scale and mass. The proposal would create an undesirable precedent for similar mews apartment developments. In this regard, the proposed development would be contrary to the ‘Z2’ zoning objective for the site, would seriously injure the amenities of the property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.”*

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The operative development plan is the **Dublin City Development Plan, 2016-2022** according to which the site location is within an area subject to the zoning objective: *Z2: "To protect and/or improve the amenities of residential conservation areas."*
- 5.1.2. Policies objective and standards for mews lane developments are within Section 16.10.16. Of note in particular is subsection (f) in which the amalgamation or subdivision of plots is generally not encouraged; (g) provision for parking to be off street garages forecourts or courtyards; (j) private open space at 10 square metres per bed space, to be located at the rear of the houses, landscaped with a depth across the width of the site of 7.5 metres, unless it is demonstrably impractical and unobstructed by parking and (l) separation distance between opposite windows of twenty two metres minimum unless where there are site constraints and high quality design ensuring privacy standards are achieved can be provided.
- 5.1.3. Nos 62 and 63 Leinster Road are included on the record of protected structures (Ref Nos 4806 and 4807) along with the historic houses on both sides of Leinster Road.

Policy Objective CHC2 is reproduced below:

*"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.*
- b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances*
- c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials.*
- d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure.*

- e) *Protect architectural items of interest from damage or theft while buildings are empty.*
- f) *Have regard to ecological considerations for example, protection of species such as bats.*

*Changes of use of protected structures, which will have no detrimental impact on the special interest and are compatible with their future long-term conservation, will be promoted.”*

- 5.1.4. These policies and objectives are elaborated on in detail in section 11.1.5.3 in which the reinstatement or protection of the original planform, retention of historic use where possible, securing long term viable use and avoidance of harmful extensions and modifications is encouraged.
- 5.1.5. Policy CHC4 provides for the protection of the special interest and character of Dublin’s Conservation Areas. The policies and objectives are elaborated on in detail in section 11.1.5.4 However, it is of note that the site location is within an area subject to the ‘Z2’ zoning objective which provides for residential conservation areas, (as distinct from statutory architectural conservation areas or areas designated as ‘conservation areas’ in the CDP.)
- 5.1.6. The location is in ‘Area 3’ for carparking standards as provide for in Table 16.1 indicating a maximum of 1.5 spaces per unit. The maximum permissible for the existing development at Nos 62 and 63 Leinster Road is eighteen spaces.

## 5.2. **Strategic Guidance:**

Development plan policies, objective and standards are superseded by the guidance and recommendations and standards within strategic guidance issued further to the National Planning Framework providing for sustainable consolidation and intensification of development as appropriate in serviced urban areas: “**Sustainable Urban Housing – Design Standards for New Apartments: Guidelines for Planning Authorities**”( 2018) refers. (The Apartment Guidelines.)



## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. An appeal was received from Paul O'Toole Architects on behalf of the applicant on 8<sup>th</sup> July, 2019. The submission includes a copy of the site survey, (Land Surveys) and a revised site plan showing modification to the original proposal, a copy of a conservation report prepared on behalf of the applicant.
- 6.1.2. The modifications proposed and shown on the revised site plan for consideration in connection with the appeal include:
- omission of the on-site parking shown in the space between the rear of the mews house and the rear of the original houses used by tenants;
  - The space at the rear of the returns to the existing houses is increased providing for a total space allocation of 217 square metres for residents of the original house and an increase from thirty to forty square metres for each of the two proposed mews dwellings;
  - Most the existing party wall between the two existing houses is retained and circulation space and parking are accommodated;
  - The boundary at the rear of the existing returns is to be repositioned to a separation distance of ten metres from the rear of the returns. The boundary will be twenty meters from the rear of the protected structures excluding the return.
- 6.1.3. According to the appeal submission:
- It can be confirmed that the original returns to the existing houses were replaced on foot of the grant of permission under P. A. Reg. Ref. 2715/99.
  - The current application shows a proposed re-arrangement of the parking provision permitted under P. A. Reg. Ref. 2715/99.
  - A section of the party boundary wall was replaced. The party boundary wall to be retained is to have an ope for pedestrian access forming a gap between the two sections of the original and new wall.

- Precedent for mews development in the rear gardens of houses on Leinster Road, included on the record of protected structures in in 'pre-63' multiple occupancies which have frontage onto Grosvenor Lane has already been set by existing mews houses development and similar development of under construction.
- Residents of the two houses are entitled to use space on Leinster Road for which there are residential parking permits.
- With regard to Policy CHC2 in the CDP it is submitted that no works to the protected structures are proposed. The substantial here storey returns separate the protected structure from the proposed development and the mews houses are of a lesser scale and considerable remove from the rear of the returns.
- It is not apparent that the proposed development contravenes Policy CHC4 is that the site is not on an architectural conservation area or other conservation area provided for in the CDP. It is an area subject to zoning objective 'Z2' defined as a conservation area which does not have the same standing as architectural conservation areas. Policy CHC4 places emphasis on the street frontage within the public realm and has little applicability at the area. The 'Z2' zoning objective would not be adversely affected.

## 6.2. **Planning Authority Response**

There is no submission on file from the planning authority.

## 7.0 **Assessment**

- 7.1. The issues of concern to the planning authority forming the basis for the reason for the decision to refuse permission are considered reasonable. The applicant has included in the appeal proposals for significant modifications to the original application addressing the issues within the reasoning for the decision to refuse permission and the comments within the planning officer and conservation officer

reports. Bearing the foregoing in mind, the issues central to the determination of the decision can be considered under the following subcategories.

Building Conservation

Qualitative and Quantitative Standards for Residential Development

Carparking.

Environmental Impact Assessment Screening.

Appropriate Assessment Screening.

## **7.2. Building Conservation.**

7.2.1. The applicant has successfully provided for modifications that reinstate, to a degree the legibility of the historic plot subdivision for Nos 62 and 63 Leinster Road. The party wall is substantively retained with the proposed arch, (built over by first floor level of the mews dwellings) providing for separate adjoining access routes on each side of the boundary. These routes provide access the rear private open space for the multiple occupancies within the existing dwellings where on-site parking is omitted and there is increased size 'garden areas' at the rear of each mews dwelling. It is considered that on balance, the applicant has provided for sufficient recognition of the original plot configurations for Nos 62 and 63 Leinster Road and with regard to retention and incorporation of the party wall in which a significant amount of fabric is retained.

## **7.3. Qualitative and Quantitative Standards for Residential Development.**

7.3.1. There is no objection to the design for the two proposed dwellings, in which the internal layout which is generally consistent with standards within the Apartment Guidelines, 2018. The arch at ground level, to be built over at first floor level by the mews dwellings is also acceptable. For an inner suburban location, within an area of historic architectural interest, this solution at the rear frontage onto Grosvenor Lane for access is considered reasonable and it is of note the delivery of consolidation and greater intensity of development, as encouraged in national policy (NPF) and the Apartment Guidelines, 2018 is facilitated through this design solution. (It is considered reasonable to have regard to design standards for apartments in consideration of the current proposal and the existing multiple occupancy houses on

the site.) It is acknowledged that the privacy and amenity potential of the proposed mews dwellings is marginally compromised but not to an undue degree.

7.3.2. The rear private open space serving the multiple occupancy dwellings within Nos 62 and 63 Leinster Road is considered to be sufficient and to provide for satisfactory qualitative and quantitative standards.

7.3.3. The considerable size and depth of the existing returns constructed on foot of the grant of permission under P.A. Reg. Ref. 3184/19, (relative to the size and depth of the historic returns which they replaced) has compromised the development potential of the rear gardens for the two existing historic houses. However, the modifications shown within the appeal do provide for increased separation distances from the rear facades the existing houses and the rear returns in which the north elevation windows serve apartment living rooms at ground and first floor levels. The north facing fenestration at second floor level for the living rooms within the existing returns, due to height has more potential to overlook and to give rise to perceptions of overlooking of the northern façade and the private open spaces allocated to each of the mews dwellings. Some mitigation in fenestration design for the north elevations of the mews dwellings could be considered to address these concerns but may not be warranted.

#### **7.4. Carparking.**

7.4.1. The applicant has provided, in the modifications to the original proposal included with the appeal, for a satisfactory site layout and dwelling design having regard to quantitative and qualitative standards and the interest of the historic architectural character. This has been achieved by way of elimination of the seven on-site parking serving the multiple occupancy within the two historic houses. The outcome is inconsistent with CDP standards for parking provision in respect of which 1.5 spaces per dwelling as indicated in Table 16.1 for the area of the CDP for residential development is required and it materially alters the prior grant of permission under P. A. Reg. Ref. 2715/99 which provided for the on-site parking.

7.4.2. It is arguable that there is sufficient on street parking (pay and display) for which residential permits may be available for residents of Nos 62 and 63 Leinster Road. It is unclear as to the number of permits the occupants of the multiple occupancy units would be entitled but it is evident that the availability of on street public parking on

Grosvenor Square and the western end of Leinster Road significantly exceeds demand. However, the elimination of the on-site parking could lead to increased parking along Grosvenor Lane which potentially contributes to obstruction and conflict with pedestrian and vehicular circulation along the lane. Although this scenario gives rise to some reservation, and additional reservations as to potential for precedent in this regard, it is considered on balance that the proposed site layout in which the existing on-site parking is omitted can be accepted.

#### **7.5. Environmental Impact Assessment Screening.**

- 7.5.1. Having regard to the nature of the proposed development and its location in a serviced inner suburban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

#### **7.6. Appropriate Assessment Screening.**

- 7.6.1. Having regard to the small-scale nature of the proposed development and, to the serviced inner suburban location, no Appropriate Assessment issues proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **8.0 Recommendation**

- 8.1. In view of the foregoing, it is recommended that the planning authority decision be overturned, and that permission be granted for the proposed development as modified in the revisions shown in the appeal. Draft reasons and considerations and conditions follow.

## 9.0 Reasons and Considerations

It is considered that, subject to the conditions set out below, the proposed development, would not seriously injure or, adversely affect the integrity, features of special interest, architectural character and setting or the visual and residential amenities of Nos 62 and 63 Leinster Road which are included on the record of protected structures and which are within an area subject to the zoning objective “Z2”, residential conservation area according to the Dublin City Development Plan, 2016-2022, would be acceptable in terms of traffic safety and convenience and, would 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 to An Bord Pleanála on 8<sup>th</sup> July, 2019 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. The proposed works to the existing historic fabric of the party wall shall be carried out under the direction of an architect with specialist expertise in historic building conservation and in accordance with the recommendations within: *Architectural Heritage Protection: Guidelines for Planning Authorities* issued by The Department of the Environment, Heritage and Local Government in 2005 and who, prior to the commencement of the development, shall be submit and agree in writing with the planning authority a conservation method statement appropriate for the works to the existing historic fabric of the party wall.

**Reason:** In the interest of clarity, and to ensure the protection of the historic fabric, character, integrity and special interest of features within the site curtilage.

3. Hours of work shall be confined to 0700 to 1900 Mondays to Fridays inclusive, excluding bank holidays and 0800 to 1400 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

**Reason:** In the interest of residential amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

5. 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.

- 7 All necessary measures shall be taken to prevent spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the site works.

**Reason:** In the interest of public amenity orderly development and traffic safety.

8. 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.

**Jane Dennehy**  
Senior Planning Inspector  
19<sup>th</sup> September, 2019.