



An
Bord
Pleanála

Inspector's Report 305178-19

Development	Detached 2-storey, 2-bedroom mews dwelling
Location	45 Belgrove Road, Clontarf, Dublin 3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2528/19
Applicant(s)	Colm and May Gallagher
Type of Application	Permission
Planning Authority Decision	Grant planning permission
Type of Appeal	Third Party v. Decision
Appellant(s)	Clare and Gerry Roebuck; Derek Beatty; Linda and Michael Norton.
Observer(s)	Brendan Lyon & Sinead O'Connell.
Date of Site Inspection	24th October 2019
Inspector	Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 325 m² and is located at No. 45 Belgrove Road, Clontarf, Dublin 3. The site is generally rectangular in shape and currently forms part of the rear garden of the existing two-storey, end-of-terrace dwelling.
- 1.2. The site is bounded by the rear gardens of Nos. 90-98A Kincora Road to the north, the rear garden of No. 43 Belgrove Road to the south, the rear garden of No. 98A Kincora Road to the east, and a recently completed scheme of 17 no. 2-3 storey infill dwellings to the south-east (PA Reg. Ref. 2401/13; ABP Ref. 242866).
- 1.3. Access to the subject site is from Vernon Avenue to the east, via a mews laneway which extends in a north-south direction to the rear of Belgrove Road. Vehicular access to the laneway is provided adjacent to No. 48 Vernon Avenue to the north (gate-controlled), and adjacent to No. 34 Vernon Avenue to the south. Access to the subject site is proposed via the southerly access. A further gate-controlled access to the mews laneway is available from the west, adjacent to No. 15 Belgrove Road.
- 1.4. There is an existing gate access in the southern boundary wall of the application site which facilitates pedestrian access onto the mews laneway.

2.0 Proposed Development

- 2.1. The proposed development comprises a detached 2-storey, 2-bedroom mews house and all associated works, with access through laneway and roads currently under construction under PA Ref: 2401/13; ABP Ref. 242866).
- 2.2. Further Information requested on 7th May 2019 in relation to 6 no. items including: impact on the development potential of No. 43 Belgrove Road; right of access to the mews laneway; car parking and emergency vehicle access; construction management; engineering services and flood risk assessment.
- 2.3. Further Information submitted on 9th July 2019, which included the omission of 1 no. window at ground floor level (southern elevation) of the proposed dwelling and a Sunlight Impact Study.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council issued Notification of the Decision to Grant Permission subject to 10 no. conditions on 2nd August 2019. Condition No. 5(a) requires the applicant/developer to submit written evidence of legal entitlement to access the site from the public road. All other conditions are generally standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 3.2.2. Basis for PA decision.

3.2.3. Other Technical Reports

Transportation Planning Division (3rd May 2019 and 25th July 2019)

- 3.2.4. Following further information, no objection subject to 4 no. conditions.

Engineering Department Drainage Division (8th April 2019 and 15th July 2019)

- 3.2.5. Following further information, no objection subject to 5 no. conditions.

3.3. Prescribed Bodies: None.

3.4. Third Party Observations

- 3.4.1. 5 no. third party observations were lodged in relation to this application. The main issues raised included: construction impacts; insufficient access to daylight; insufficient access for emergency services; insufficient plot width; inadequate set-back from the mews laneway; loss of visual amenities; noise, dust and nuisance impacts; inappropriate roof alignment and pitch; overlooking/overbearing impacts; failure to address previous refusals of planning permission; and, loss of mature trees and planting.

4.0 Planning History

- 4.1. **PA Reg. Ref. 2378/17; ABP Ref. PL 29N.248552:** Planning permission refused for detached, 3-bedroom house with garage for 2 no. reasons including: (i) overbearing impact on the adjacent residential property, and (ii) substandard mews laneway access resulting in traffic hazard.
- 4.2. **PA Reg. Ref. 3635/18:** Planning permission refused for single-storey single bedroom house as ancillary accommodation for 2 no. reasons including: (i) overbearing impact on the adjacent residential property and (ii) failure to comply with Development Plan criteria for ancillary family accommodation.
- 4.3. Other Relevant Planning History:
- 4.4. **PA Reg. Ref. 2401/13; ABP Ref. PL 29N.242866:** Planning permission granted for 17 no. dwellings in 6 no. blocks, with new access from Vernon Avenue on a site between Nos. 28 & 34 Vernon Avenue, to the rear of Nos. 34-50 Vernon Avenue, Nos. 15-43 Belgrove Road, Nos. 96-98 Kincora Road, Nos. 13-15 St. Joseph's Square and Nos. 9-11 Vernon Wood, D3.
- 4.5. Access to the current appeal site is proposed via the mews laneway/roads which were upgraded under this application.
- 4.6. **PA Reg. Ref: 4009/17; ABP Ref. 301905-18:** Planning permission granted for 2-storey, 2-bedroom mews dwelling to the rear of No. 17 Belgrove Road, with access via the same new road network.
- 4.7. This site is located at the southern end of the mews laneway. The scale of the permitted development is similar to that proposed under the current application.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. **Zoning:** The site is subject to land use zoning 'Z1' (Sustainable Residential Neighbourhoods), which has the objective "*to protect, provide and improve residential amenities*". Residential land uses are permissible under this zoning objective.

- 5.1.2. **Policy:** The housing policies of Dublin City Council are contained within Chapter 5 of the Development Plan. Those policies which are directly relevant to this appeal case are identified below.
- 5.1.3. **Policy QH1:** To have regard to the DEHLG Guidelines on '*Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities*' (2007), '*Delivering Homes Sustaining Communities – Statement on Housing Policy*' (2007), '*Sustainable Urban Housing: Design Standards for New Apartments*' (2015) and '*Sustainable Residential Development in Urban Areas*' and the accompanying '*Urban Design Manual: A Best Practice Guide*' (2009).
- 5.1.4. **Policy QH7:** To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.
- 5.1.5. **Policy QH21:** To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.
- 5.1.6. **Policy QH22:** To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.
- 5.1.7. **Section 16.10.8 Backland Development**
- 5.1.8. The development of individual sites can conflict with the established pattern and character of development in an area and can cause significant loss of amenity to existing properties. Applications for backland development will be considered on their own merits.
- 5.1.9. **Section 16.10.16 Mews Dwellings**
- 5.1.10. The Planning Authority will encourage the unified development of mews laneways. Building heights will generally be limited to two storeys, with one off-street car space required for each dwelling. Mews laneways should have minimum carriageway width of 4.8 m or 5.5m where no verges or footpaths are provided. Open space required to the rear to a depth of 7.5 m. and where provided, the requirement for 10 m² of

private open space per bedspace may be relaxed. A distance of 22 metres should be maintained between opposing windows but may be relaxed due to site constraints.

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, comprising 1 no. residential dwelling in an established residential area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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. 3 no. third party appeals have been received from (i) Architectural Farm on behalf of Clare and Gerry Roebuck, No. 43 Belgrove Road, Dublin 3, (ii) Hughes Planning & Development Consultants on behalf of Derek Beatty, No. 96 Kincora Road, Dublin 3; and, (iii) Linda & Michael Norton, No. 94 Kincora Road, Dublin 3.

The grounds of appeal can be summarised as follows:

- Overshadowing, overbearing, overlooking and visual impacts to neighbouring dwellings;
- Inappropriate scale of development;
- Failure to address previous refusals of permission pertaining to the site;
- Inappropriate precedent set by permitted mews dwelling to rear of No. 17 Belgrove Road;
- Insufficient access for emergency services;
- Construction, disturbance and nuisance impacts;
- Insufficient mews laneway width and insufficient set-back from same;

- The proposed development will inhibit the development potential of neighbouring sites and represents disorderly backland development contrary to the site's Z1 zoning objective.

6.2. Applicant Response

6.2.1. This can be summarised as follows:

- No overlooking will occur as no windows are proposed facing adjoining boundaries;
- Acceptable access and parking arrangements have been demonstrated;
- Large east and west facing windows will ensure internal rooms receive sufficient light;
- Minimal overshadowing will occur due to the proposed 3 metre eaves height;
- A precedent for mews development has been established to the rear of No. 17 Belgrove Road; and,
- The proposed development has been designed to comply with all Development Plan requirements.

6.3. Planning Authority Response

6.3.1. It is considered that no new issues arise.

6.4. Observations

6.4.1. An observation has been made by Brendan Lyon & Sinead O'Connell of No. 98A Kincora Road, Dublin 3. The issues raised include: the proximity of the development to No. 98A Kincora Road; failure to address previous refusals of permission; overdevelopment; and, overlooking resulting from the loss of mature planting.

6.5. Further Responses

6.5.1. A further submission from Hughes Planning and Development Consultants on behalf of Mr. Derek Beatty reiterates that planning permission should be refused.

7.0 Assessment

7.1. I am satisfied that the issues raised in the appeals are the main issues for consideration in this case, including:

- Compliance with Development Plan Policy;
- Planning History for the Subject Site;
- Scale of Development / Impacts on Residential Amenity;
- Access Arrangements; and,
- Appropriate Assessment.

7.1.1. Each of these issues is addressed in turn below.

7.2. Compliance with Development Plan Policy

7.2.1. The Applicants confirm that they intend to move into the proposed dwelling, enabling their children to live in the existing house. The proposed dwelling is detached from the existing house and will be accessed from the mews laneway to the rear. Thus, in my opinion, the development plan policies concerning mews development, rather than those concerning ancillary family accommodation, are pertinent to the assessment of this appeal case.

7.2.2. Having reviewed the planning application drawings, I consider that the proposed development complies with development plan standards for mews dwellings. A building height of 2-storeys is proposed, with a rear garden depth of 11 metres. A separation distance of c. 25 metres will arise between the opposing first floor windows of the existing and proposed dwellings. Access to the site is proposed via the existing mews laneway to the rear of Belgrove Road, with space for off-street car parking proposed to the front. The site access arrangements are considered in further detail in Section 7.5 of this report below.

7.2.3. A rear garden of approximately 62 m² (c. 8.3 m x 7.5 m) will remain to serve the existing dwelling house. S.16.10.2 of the development plan confirms that rear gardens of 60-70 m² are sufficient for houses in the city and as such, the remaining garden space is considered acceptable.

- 7.2.4. The development plan requires that mews buildings should complement the character of the laneway and main building in terms of scale, massing, height, building depth, roof treatment and materials. Depending on the context of the location, mews buildings may be required to incorporate gable-ended pitched roofs.
- 7.2.5. The proposed mews dwelling is lower in height than the existing two-storey dwelling and is marginally taller than Block F of the recently completed infill scheme to the south-east. The gable end of this 2-storey block fronts onto the mews laneway proximate to the subject site.
- 7.2.6. In my opinion, the gable-ended, pitched roof style of the proposed dwelling responds to the linear nature of the site, with the original rear garden being in excess of 50 m long and 7.5 m wide, resulting in an east-west building footprint of 14.887 m within the application site. I note that the character and scale of the proposed dwelling reflects that of the recently permitted 2-storey mews dwelling to the rear of No. 17 Belgrove Road at the southern end of the mews laneway. As such, I consider that the design and scale of the proposed dwelling reflects the pattern of existing and recently permitted developments in the vicinity.

7.3. **Planning History for the Subject Site / Scale of Development**

- 7.3.1. Planning permission has been refused for a detached dwelling on the subject site on two previous occasions. Under PA Reg. Ref. 2378/17; ABP Ref. PL 29N.248552, permission was refused for a detached, 3-bedroom house for 2 no. reasons including: (i) the proposed development would be overbearing in its relationship with adjacent residential property; would adversely affect privacy; would be substandard and inhibit future development due to its orientation and proximity to boundaries including the proximity of windows facing boundaries, and (ii) substandard mews laneway resulting in traffic hazard.
- 7.3.2. In comparing the current application with this previous proposal, I note the following with respect to the neighbouring property at No. 43 Belgrove Road:
- The height of the dwelling to eaves level has been reduced from 4.745 m to 3.1 m, while the overall height has increased from 6.625 m to 7.25 m;
 - The building footprint along the shared boundary has been reduced from 17.362 m to 14.887 m;

- A reduced number of windows is proposed facing the shared boundary. The hall door, hall window and secondary window to the proposed lounge are set back from the shared boundary by 1.3996 m; and,
- 1 no. centrally positioned window is proposed in the western elevation at first floor level, compare with 2 no. as previously proposed.

7.3.3. In considering the second refusal reason, I note that the Transportation Planning Division had no objection to the proposed development, subject to 4 no. conditions. This matter is discussed further in Section 7.5 of this Report below.

7.3.4. Under PA Reg. Ref. 3635/18, permission was refused for a single-storey, single bedroom house for two reasons including: (i) overbearing impacts on No. 43 Belgrove Road and (ii) failure to comply with Development Plan policy regarding ancillary family accommodation.

7.3.5. In comparing the current application with this previous proposal, I note the following with respect to the neighbouring property at No. 43 Belgrove Road:

- The height of the dwelling to eaves level has been reduced from 4.195 m to 3.1 m, while the overall height has increased from 6.625 m to 7.53 m;
- The building footprint along the shared boundary has been reduced from 17.362 m to 14.887 m;
- A reduced number of ground floor windows is proposed fronting the shared boundary as discussed above.

7.3.6. In considering the planning history for the subject site, I consider the proposed development has been amended sufficiently to warrant a grant of planning permission in this instance.

7.3.7. Notwithstanding the increased overall building height, the height of the dwelling to eaves level adjacent to No. 43 Belgrove Road has been reduced by between 1.095 m and 1.645 m, while the building footprint has been reduced by 2.475 m, which will serve to reduce its scale and massing relative to the rear garden of No. 43 Belgrove Road. The impact of the development on the residential amenity of this property is discussed further in Section 7.4 below.

7.4. Scale of Development / Impacts on Residential Amenity

- 7.4.1. I consider that the potential impact of the development on the dwellings to the north at Kincora Road and to the south at No. 43 Belgrove Road are the key considerations in this case.
- 7.4.2. The proposed mews dwelling abuts the rear (southern) boundaries of Nos. 92-96 Kincora Road to the north, which have rear garden depths in excess of 35 metres. Given the scale of the proposed development and the considerable separation distances which arise, it is considered that no significant negative overbearing, overlooking or overshadowing impacts will arise to the residential amenities of the existing properties on Kincora Road.
- 7.4.3. The observation received from the residents of No. 98A Kincora Road raises overlooking concerns due to the loss of mature trees. However, no directly opposing relationship arises between this property and the proposed dwelling, and as such, I consider that these concerns are unfounded.
- 7.4.4. The proposed mews dwelling extends along the shared rear boundary with No. 43 Belgrove Road with a set-back distance of between 0.735 m and 1.3996 m arising. The height of the mews dwelling to eaves level is 3.1 m and to ridge level is 7.53 m. The appeal which has been received from the residents of this neighbouring property raises a number of concerns, including in relation to overlooking and overbearing impacts and the overdevelopment of the site.
- 7.4.5. The applicant's Further Information Response to the Planning Authority confirms the omission of the ground floor kitchen/living room window in the southern elevation given its proximity to the shared boundary. I note that the remaining doors and windows along this elevation are set back from the shared boundary by 1.3996 metres. At first floor level, only 1 no. rooflight is proposed over the stairwell, and as such, no overlooking of No. 43 Belgrove Road can occur.
- 7.4.6. The neighbouring property has a single-storey extension to the rear and a remaining garden depth of approximately 29 m. At its closest point, a separation distance of c. 12.2 m will arise between the rear extension of No. 43 Belgrove Road and the western elevation of the proposed mews dwelling.
- 7.4.7. The Applicant's Further Information Response included a Sunlight Impact Study, the contents of which are noted. In my opinion, given that the proposed mews dwelling is

positioned to the north of No. 43 Belgrove Road, no significant negative impacts will arise with respect to the availability of sunlight or overshadowing to the rear garden of this property.

- 7.4.8. While it is acknowledged that the proposed mews dwelling will alter the existing context of the rear garden of No. 43 Belgrove Road, it is considered that the proposed development would not have a significant negative impact on the residential amenities of this property given the depth of the rear gardens in both cases, the separation distances which arise, the reduced eaves height of the proposed mews dwelling and the absence of any fenestration at first floor level obviating any direct overlooking of the neighbouring garden space.

7.5. Access Arrangements

- 7.5.1. Access to the proposed development is proposed via the southerly access to the mews laneway from Vernon Avenue, which I noted to be uncontrolled at the time of my site inspection. A number of the appellants submit that the proposed mews laneway is of insufficient width and is not suitable to accommodate access for emergency vehicles.
- 7.5.2. I note that the Further Information Request of the Transportation Planning Division required the Applicant to demonstrate that there is sufficient space within the site to manoeuvre a car and to facilitate access for emergency vehicles. No concerns were raised in relation to the width of the mews laneway. Following the assessment of the Further Information as submitted, this Division had no objection to the proposed development subject to 4 no. conditions. As such, I am satisfied that no issues arise with respect to site access.
- 7.5.3. The Further Information Request of the Transportation Planning Division required the applicant to demonstrate a right of way over the mews laneway. While no response was provided by the applicant, I note this to be a legal matter and the provisions of Section 34(13) of the Act, which states that a person shall not be entitled solely by reason of a permission under this section to carry out any development.

7.6. Appropriate Assessment

- 7.6.1. Given that the development is proposed to be connected to the public water supply and drainage networks, and having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate

assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1. I recommend that permission be granted subject to conditions.

9.0 Reasons and Considerations

Having regard to the site's location on serviced urban land, its residential land use zoning, the nature and scale of the proposed development and the pattern of existing and permitted residential development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 9th July 2019, except as may otherwise be required in order to comply with the following conditions.</p> <p>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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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</p>

	<p>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 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.</p> <p>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.</p>
3.	<p>Details of all external materials and finishes, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>A naming/numbering scheme for the dwelling shall be submitted to and agreed in writing with the planning authority prior to the occupation of the dwelling.</p> <p>Reason: in the interest of orderly street numbering.</p>
5.	<p>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.</p> <p>Reason: In the interest of public health.</p>
6.	<p>Prior to the commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 on</p>

	<p>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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
8.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.</p> <p>Reason: In the interests of sustainable waste management.</p>

Louise Treacy
 Planning Inspector
 5th November 2019