



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305183-19

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<b>Development</b>	Change the use from storage use to residential use and extension at the rear.
<b>Location</b>	80 Whitworth Road, Dublin 9
<b>Planning Authority</b>	Dublin City Council North
<b>Planning Authority Reg. Ref.</b>	3128/19
<b>Applicant(s)</b>	Michael O'Keeffe.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Michael O'Keeffe.
<b>Observer(s)</b>	Edel Cunningham Sinead Cronin
<b>Date of Site Inspection</b>	20 <sup>th</sup> November 2019
<b>Inspector</b>	Sarah Lynch

## 1.0 Site Location and Description

- 1.1. The appeal site is located to the rear of 80 Whitworth Road which currently contains a single storey garage and is accessed via roller garage door. The existing dwelling on site is an end of terrace two storey dwelling accessed via a pedestrian gate from Whitworth road and contains a garage within the rear garden of the site which is accessed via David Park.
- 1.2. All the dwellings within the terrace of properties adjoining the appeal site have a rear access from David Park. One mews development has been constructed at the junction of David Park and David road.
- 1.3. The surrounding area is characterised by terrace dwellings with Charleville Lawn Tennis Club located directly to the north west of the site.

## 2.0 Proposed Development

- 2.1. It is proposed to construct the following:
  - Change of use of existing store to residential.
  - Extension of store by 16.7sqm
  - Demolition of existing boiler room and laundry room.
  - Replacement of roller door with wooden door.

## 3.0 Planning Authority Decision

### 3.1. Decision

Dublin City Council determined to refuse permission for the following reason:

1. The proposed development would represent a substandard form of development failing to provide adequate private open space for both the existing and proposed dwellings on the site and would comprise overdevelopment of the site. The proposed development also incorporates a proposed vehicular access via a laneway network which is currently substandard in width, falling below the minimum width required to serve a proposed mews dwelling. The proposal fails to accord with Section 16.10.16

of the Dublin City Development Plan 2016-2022 and would therefore, by itself and by the precedent it would set for other development, seriously injure the residential amenities of property in the vicinity, be contrary to the provisions of the Dublin City Development Plan 2016-2022 and be contrary to the proper planning and sustainable development of the area

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

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

- The planner report is consistent with the decision of the planning authority.

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

- Drainage Division – no objections subject to conditions.
- Transportation – refusal recommended.

### **3.3. Prescribed Bodies**

- Transport Infrastructure Ireland – site is within an area where the Luas Section 49 contributions are applicable.

### **3.4. Third Party Observations**

- A number of third-party observations were received, the issues raised are set out within the observations to the appeal.

## **4.0 Planning History**

The following recently recorded history relates the appeal site:

2418/96 - Application for the erection of a double garage. Permission was granted for the development, subject to conditions, including the following:

“3. The domestic garages hereby approved shall be used for the accommodation of private vehicles only by the residents of No.80 Whitworth Road and not for the accommodation of commercial vehicles or for any repair work or any business.

4. The height of the front and rear walls of the proposed structure including upstanding parapets shall not exceed 3 metres above existing ground level measured externally. The ridge level of the pitched roof to the garage hereby approved shall not exceed 4 metres in height from ground level measured externally. Prior to commencement of this development details showing the revised proposal shall be submitted to and shall receive the written agreement of the Planning Authority.

I note that the planners report refers to an additional history application, however no record of this is available.

## **5.0 Policy Context**

### **5.1. Development Plan**

#### **Dublin City Development Plan 2016-2022**

- Land use zoning objective Z1 – To protect, provide and improve residential amenities.
- QH8 – Promote development of vacant sites
- QH22 – New houses to be in keeping with character of existing.
- Section 16.6 – Site Coverage
- Section 16.10.8 Backland Development.
- Section 16.10.10 Infill Housing
- Section 16.10.16 Mews Dwellings

#### **National Planning Framework Project Ireland 2040**

- Section 2.2 - Compact Growth
- NSO 1 – Compact growth

## **Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2018.**

- Appendix 1 – Required minimum floor areas and standards

## **Quality Housing for Sustainable Communities 2007**

- Section 5 – Dwelling design

### **5.2. Natural Heritage Designations**

South Dublin Bay and River Tolka Estuary SPA is located c. 2.7 km east of the site.

North Dublin Bay SAC is located c. 6km east of the site.

North Bull Island SPA is located c. 6km east of the site.

### **5.3. EIA Screening**

- 5.4. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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**

RW Nowlan & Associates have prepared the grounds of appeal on behalf of the applicant. The issues raised can be summarised as follows:

- 13sqm of open space is provided for the mews and 40sqm for dwelling.
- 10sqm is required for a mews under the Dublin City Development Plan.
- The DCC planners report states that 20sqm of open space is required.
- The main house is in multiple occupancy, the Development Plan requirement for open space is 60sqm. This cannot be achieved, however open space will be landscaped and improved for residents as a result of this development.

- Carparking at rear of site is existing and no changes are proposed to this.
- While the laneway is only 3.5 metres in width the occupant will be the only user of this section of road.
- Similar mews development has been permitted along David Park lane were the site is wider.
- Applicant is willing to remove existing parking space.
- Proposed change of use is in line with zoning objective.
- The proposed development is largely in compliance with the requirements set out in Quality Housing for Sustainable Communities – Best Practice Guidelines for delivering homes.
- No overlooking will result from the development.

## 6.2. Planning Authority Response

- None

## 6.3. Observations

Two observations were received from local residents the issues raised within the observations can be summarised as follows:

- Further parking would make access to the rear of no. 80 Whitworth road impossible.
- The road would be inaccessible in an emergency.
- Congestion may impede medical professionals to attend overnight calls.
- The proposed roller gate would not be wide enough to allow access by car.
- The house is a commercial premise which operates short term lets and operates under the name Greener Suites.
- Concerns that the property is rented out as a source of income as an Airbnb and not a primary residence.

## 7.0 Assessment

7.1. The proposed development is located within an area subject to the Z1 zoning objective which seeks to protect, provide and improve residential amenities. The principle of residential development is accepted within this zoning objective subject to compliance with the Dublin County Development Plan 2016-2022 and relevant Section 28 guidelines. This is a first party appeal against the planning authority's decision to refuse permission, the issues for consideration before the Board therefore can be summarised as follows:

- Adequacy of amenity space & overdevelopment.
- Access.
- Appropriate Assessment.

### **Adequacy of amenity space & overdevelopment.**

7.2. It is contended within the reasons for refusal that the proposed development does not provide an adequate quantum of amenity space to serve the existing house. The applicant proposes to provide 40sqm of open amenity space to the rear of 80 Whitworth Road and contends that at present the quality of the open space is poor. It is stated within the grounds of appeal that whilst the applicant acknowledges the under provision of open space the proposal will provide a new landscaped area of high quality for residents. The applicant considers that the quality of the space should therefore circumvent the quantum required.

7.3. The applicant also states that the quantum of open space associated with the proposed mews development is in excess of the 10sqm required by the development plan, 13sqm is provided for.

7.4. Whilst I acknowledge the applicant's contentions, I note from the plans submitted that the proposed rear garden area of the existing dwelling is north facing with a part two storey part single storey rear return. A c. 2 metre wall bounds the site to the east and a wall and hedgerow bounds the site from the tennis club to the west. The proposed amenity space to the rear will have limited access to sunlight with only c. 22 sqm of this space having relatively unobstructed access to limited sunlight given its northern orientation.

- 7.5. The Dublin City Development Plan 2016-2022 under policy CC4 encourages building layout and design which maximises daylight and requires residential development to be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011).
- 7.6. Having regard to the closeness of the proposed buildings and the orientation of the site and the boundary treatment surrounding it, it is questionable if the extent of communal open space to the existing dwelling can reasonably be regarded as being suitable for year-long communal use having regard to the extent of shading of the area. BRE states that at least half of a garden or amenity area should receive at least two hours of sunlight on 21<sup>st</sup> March. Given that the garden is north facing and having regard to the development surrounding it, it is questionable as to whether this can be achieved. Notwithstanding the proposed landscaping improvements, I consider the area of open space to serve the existing dwelling to not only be significantly below the quantitative requirements of the Development Plan but to also be unacceptably low when having regard to overall usability of the space.
- 7.7. The open space associated with the proposed mews will be located to the rear of the building and will have a depth of c. 2.1 metres which will be enclosed by a 1.8 metre wall to the south. Given the height of the boundary walls and the restricted depth of this open space, I consider it unlikely that any of the mews garden will have access to sunlight.
- 7.8. Whilst I acknowledge that the overall area of this space is in excess of the 10sqm required by the development plan, it is also a requirement that the depth of such space is no less than 7.5 metres with the exception of areas that are of a high quality. The limited depth of this space to the rear will result in a dark strip with no outlook or quality of space for residents. Having regard to the foregoing and taking into account the significant short fall in the proposed bedroom floor area, I consider that the proposed development would provide for a substandard form of accommodation which would be injurious to the residential amenities of future residents.
- 7.9. In conclusion I consider the quantum and quality of open space proposed to serve both the existing residential dwelling and proposed mews to be inadequate and contrary to the requirements of the Dublin City Development Plan.



## **Access**

- 7.10. It is proposed to provide a parking space within the site to the front of the proposed mews development. The proposed parking space will be accessed via the existing laneway along David Park to the rear of Whitworth Road. This road is c. 3.5 metres in width. Section 16.10.16 of the Dublin City Development Plan requires such access roads serving mews developments where there is no footpath to be no less than 5.5 metres in width. A narrow footpath is present to the north of David Park lane however this ends at the entrance to the dwellings located to the north of the appeal site. The carriage way is therefore c.3.5 metres in width with no footpath or verge.
- 7.11. It is contended by the applicant that the appeal site will be the only site to use this section of the access lane and therefore a relaxation of the requirements should be provided for.
- 7.12. I noted at the time of inspection that 2 other dwellings utilise this part of the access lane and as such residents of the mews would have to pass these entrances whilst walking on the road prior to reaching their property. I also noted that there is an existing rear entrance directly opposite the appeal site which would directly conflict with the entrance to the proposed mews. Two entrances directly opposing each other on such a narrow carriage way whereby no footpath is available for future residents is not acceptable.
- 7.13. In addition, I note that the proposed parking space is c. 4.5 metres in length. No details of turning movements have been provided and the applicant has not demonstrated that a car can enter and leave the proposed parking space within the limited space available. I am not satisfied based on the information provided and from observations of the site that vehicles could enter and exit the site in a safe manner.
- 7.14. Having regard to the foregoing I consider that the proposed development would be contrary to section 16.10.16 in that it provides for a mew development accessing onto a road without a footpath and a width of significantly less than 5.5 metres. The proposed development would also be likely to give rise to a traffic hazard and is therefore not acceptable.

### **Appropriate Assessment**

7.15. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any 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 a European site.

### **Conclusion**

7.16. In conclusion I consider that the proposed development will result in a substandard form of development by virtue of the lack of usable open space and the inadequate width of the access lane to cater for cars and pedestrians in a safe and orderly manner. In addition to the issue of open space and access I note from the plans submitted that the proposed bedroom is significantly under sized and notwithstanding the provision of a larger living area I consider this to be unacceptable. The proposed development therefore provides for a substandard level of residential amenity for both the occupants of the proposed mews and the existing dwelling on site and is contrary to the provisions of the Dublin City Development Plan in this regard.

## **8.0 Recommendation**

8.1. I recommend that permission is refused for the following reason:

1. The proposed development by virtue of the limited size and quality of private open space to be provided would result in a substandard form of development which would be contrary to the provisions of the Dublin City Development Plan 2016-2022 in which it is the policy to provide for quality residential development with mews garden depths of not less than 7.5 metres. This is reasonable. The development would therefore be contrary to the provisions of Development Plan and as such would be contrary to the proper planning and sustainable development of the area.

2. The proposal provides for a mews development which is accessed via a road of less than 3.5 metres in width in which there is no footpath or verge. Section 16.10.16 of the Dublin City Development Plan 2016-2022 requires that such mews development is only permitted where the adjacent access road width is no less than 5.5 metres. This is reasonable. The proposed development would therefore endanger public safety by reason of a traffic hazard and would be contrary to the provision of the Dublin City Development Plan in this regard and as such would be contrary to the proper planning and sustainable development of the area.

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Sarah Lynch  
Planning Inspector

20<sup>th</sup> November 2019