



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305708-19

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<b>Development</b>	Construction of a mews house with associated site works and off street car parking spaces
<b>Location</b>	Rear of No 89 Strand Road, Sandymount, Dublin 4
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2685/19
<b>Applicant(s)</b>	James Philips
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	John Donnelly
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	13 <sup>th</sup> February 2020
<b>Inspector</b>	Mary Crowley

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## 1.0 Site Location and Description

1.1. The appeal site with a stated area of 180 sqm ha is located to the rear of No 89 Strand Road. The site is accessed from the rear through an existing 2.4m wide gate that is accessed off a rear lane that serves a number of other residential units. The site is bounded to the north by a relatively large single storey mews house at the rear of No 87 Strand Road and to the south and west by a two-storey house that fronts onto the turning area at the end of the access laneway / turning area. It is noted that 4 no houses enjoy access from this laneway. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

## 2.0 Proposed Development

2.1. Permission is sought for the construction of a two bedroom, two storey mews house (101 sqm) with associated site works and off street car parking space (existing vehicular entrance widened) to the rear of No 89 Strand Road, Sandymount, Dublin 4.

2.2. The application was accompanied by the following:

- Planning Report
- Drainage Report
- Solar Analysis

2.3. Further information was submitted on the 27<sup>th</sup> August 2019 and summarised as follows

- Auto-track Plan demonstrating that a car can *safely access and exit the proposed car parking space*.
- Declaration of Friedrich and Linda Reitter, previous owners of the property. The declaration outlines the situation with respect to the ownership / access arrangements over the access laneway from Strand Road. The applicant purchased the property from the Reitters in 2009.
- Flood Risk Assessment.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. DLRCC issued a notification of decision to grant permission subject to 9 no generally standard conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- The **Case Planner** in their first report recommended that further information be sought in relation to (1) the submission of auto-track drawings in order to demonstrate that a car can safely access and exist the proposed site; (2) sufficient legal interest or benefit from a right of way over the access laneway and (3) the submission of a Flood Risk Assessment.
- The **Case Planner** having considered the further information submitted recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by DLRCC reflects this recommendation.

#### 3.2.2. Other Technical Reports

##### Planning Application

- **Drainage Division** – No objection subject to conditions relating to drainage and surface water.
- **Transportation Planning** – Requested further information in relation to safe access and egress of cars to the appeal site and legal interest.

##### Further Information

- **Transportation Planning** – No objection subject to conditions relating to the vehicular entrance not having outward opening gates; all costs incurred by DCC shall be at the expense of the developer and compliance with the requirements of the Code of Practise.

### 3.3. Prescribed Bodies

- No reports on file.

### 3.4. Third Party Observations

- 3.4.1. There is one observation recorded on the appeal file from (1) John Donnelly, No 81a Strand Road (appellant in this case). It is stated that the appellants house is over 100 years old and he has lived there since March 2000. Issues raised relate to the proximity of the observer's front door, gas pipes and meter and the proposed vehicular entrance; future residents reversing out onto the observers car parking space and increased flood risk.

## 4.0 Planning History

- 4.1. There was a previous appeal on the adjoining site to the north that may be summarised as follows:

- **APB PL.29S.241070** (Reg Ref 2811/12) – DLRCC refused planning permission for the demolition of a garage and the construction of a mews together with associated site works at the rear of No. 87 Strand Road, Sandymount, Dublin 4 with access from the laneway from Strand Road for the following reason. The site is called No. 87A:
  - 1) *The access laneway is substandard in width and the right angle bend on the road reduces visibility for both pedestrians and vehicles. The proposed development would also increase vehicular and pedestrian movements on the laneway therefore it is considered that the development would endanger public safety by reason of a traffic hazard and be contrary to the proper planning and sustainable development of the area.*
- The decision was appealed by the first party. The Planning Inspector recommended that permission be refused for the following reason:
  - 1) *Having regard to the location of the site at the end of a roadway which is substandard in width incorporating a right angled bend and to the existing pattern of development, it is considered that the proposed development would involve an unacceptable intensification of use that would increase vehicular and pedestrian conflict at this location and at the junction with Strand Road which would endanger public safety by reason of a traffic hazard and be contrary to the proper planning and sustainable development of the area.*

- The Board granted permission subject to 5 no standard conditions. The Board stated that *in deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that, given the limited scale of the proposed development together with the presence of an existing garage (to be demolished) on the site, the proposed development would give rise to only a minor intensification of traffic turning movements. Furthermore, the Board noted that cars exit the laneway onto the public road in forward gear.*

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The operative plan for the area is the **Dublin City Development Plan 2016-2022**. The site is within an area zoned **Sustainable Residential Conservation Area – Zone Z2** where the land use zoning objective is “*to protect and / or improve the amenities of residential conservation areas*”. Section 16.10.16 Mews Dwellings sets out the following objectives that are relevant to the assessment of this scheme:

*c) Development will generally be confined to two-storey buildings. In certain circumstances, three-storey mews developments incorporating apartments will be acceptable, where the proposed mews building is subordinate in height and scale to the main building, where there is sufficient depth between the main building and the proposed mews building to ensure privacy, where an acceptable level of open space is provided and where the laneway is suitable for the resulting traffic conditions and where the apartment units are of sufficient size to provide for a high quality residential environment. This is in line with national policy to promote increased residential densities in proximity to the city centre.*

*e) New buildings should complement the character of both the mews lane and main building with regard to scale, massing, height, building depth, roof treatment and materials. The design of such proposals should represent an innovative architectural response to the site and should be informed by established building lines and plot width. Depending on the context of the location, mews buildings may be required to incorporate gable-ended pitched roofs.*

*g) All parking provision in mews lanes will be in off-street garages, forecourts or courtyards. One off-street car space should be provided for each mews building, subject to conservation and access criteria.*

*h) New mews development should not inhibit vehicular access to car parking space at the rear for the benefit of the main frontage premises, where this space exists at present. This provision will not apply where the objective to eliminate existing unauthorised and excessive off-street car parking is being sought.*

*i) Potential mews laneways must have a minimum carriageway of 4.8 m in width (5.5 m where no verges or footpaths are provided). All mews lanes will be considered to be shared surfaces, and footpaths need not necessarily be provided.*

*j) Private open space shall be provided to the rear of the mews building and shall be landscaped so as to provide for a quality residential environment. The depth of this open space for the full width of the site will not generally be less than 7.5 m unless it is demonstrably impractical to achieve and shall not be obstructed by off-street parking. Where the 7.5 m standard is provided, the 10 sq.m of private open space per bedspace standard may be relaxed.*

*l) The distance between the opposing windows of mews dwellings and of the main houses shall be generally a minimum of 22 m. This requirement may be relaxed due to site constraints. In such cases, innovative and high quality design will be required to ensure privacy and to provide an adequate setting, including amenity space, for both the main building and the mews dwelling.*

## **5.2. Natural Heritage Designations**

5.2.1. The site is not located within a designated Natura 2000 site.

## **5.3. EIA Screening**

5.3.1. Having regard to the nature and scale of the proposed development comprising a new mews dwelling house in a serviced urban 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. The third-party appeal has been prepared and submitted by Marston Planning Consultancy on behalf of John Donnelly, 81a Strand Road and may be summarised as follows:

- **Access** – The proposed access into the site is not achievable due to existing arrangements, front door and services of the appellants property, and will therefore result in haphazard parking arrangements, which are already requiring residents to park away from the cul de sac clearly indicating that any further intensification will be unacceptable. The proposal will result in an unacceptable intensification of use that would increase vehicular and pedestrian conflict at the junction with Strand Road which would endanger public safety by reason of traffic hazard.
- **Scale of Mews** – The two-storey scale, form and setting of the proposal is completely at odds with the established building form, pattern of development and building lines. Requested that the scheme be refused on grounds that the scale and positioning of the proposal is contrary to the established pattern of development and Section 16.10.16 of the Development Plan.
- **Flood Risk** – The Flood Risk Assessment has had no regard to the potential knock on flooding impacts of the proposal in relation to the surrounding environment including the appellants property. Given the increase in the built-up nature of this already intensely developed area, the appellant would have reasonable and justifiable concerns that the proposal and its mitigation measures would materially increase the flood risk to the appellants property.
- **Character of the Area** – There is no precedent along this laneway for a modern new two storey mews development. The only recent back garden / mews type development has been single storey only.
- **Property Value** – The proposal would have a material and significant reduction in the value of the appellants property through the material reduction in the parking environment and the proposed access to the property that will seriously endanger safe entry and exit from their own house as well as significant increase in flood risk in the area.

## 6.2. First Party Response

6.2.1. The first party response to the appeal was prepared and submitted by Anne Marie Sheridan, Planning Consultant on behalf of the applicant and may be summarised as follows:

- **Inadequate & Unsafe Access** – The proposal will generate one extra car on the laneway and an indeterminate amount of pedestrian movement. The scheme will not place excessive traffic loading on the laneway. Further DCC Transport Planning fully assessed the traffic movement and safety aspects of the proposal and found them to be reasonable.
- The proposal will result in the movement of one car associated with the proposed development in close proximity to the appellants front door. There is a c1m paved strip between the appellants house and the adjoining laneway which includes planting. This together with the projecting canopy above the appellants entrance door serves as a valuable protecting buffer to the appellants entrance from the incursion of vehicular traffic.
- The appellant has options in relation to on-lane parking which would not obstruct access to the appeal site. The appellant has no right in law to block access to an established right of way as is established at the appeal site.
- **Scale of Mews** – The reduction in height of the proposed development to a single storey structure would not serve the visual coherence and amenities of the laneway and notwithstanding the existing single storey house to the rear of No 87, would establish an incongruous feature in the context of a predominantly two storey streetscape.
- **Flood Risk** – The application was accompanied by full drainage report and a Flood Risk Assessment. The drainage element of the proposal has been assessed by DCC Drainage Department and found to be acceptable.
- **Character of the Area** – The proposed structure, by reason of its architectural form and materials, will blend in well with the established pattern of development in the laneway and will not be out of character with the laneway.
- **Reduction of Property Value** – No specialist valuation advice or opinion has been provided. The points at issue have been addressed above and are considered to

not to seriously impact on the appellants property in a way that could contribute to a reduction in its value.

### 6.3. **Planning Authority Response**

6.3.1. There is no response recorded on the appeal file.

### 6.4. **Observations**

6.4.1. There are no observations recorded on the appeal file.

### 6.5. **Further Responses**

6.5.1. There are no further responses are recorded on the appeal file.

## 7.0 **Assessment**

7.1.1. This assessment is based on the plans and particulars submitted with the planning application on the 4<sup>th</sup> April 2019 as amended by further plans and particulars submitted on the 27<sup>th</sup> August 2019.

7.1.2. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Traffic Safety
- Scale & Character
- Flooding
- Other Issues

### 7.2. **Principle**

7.2.1. Under the provisions of the Dublin City Development Plan 2016 – 2022 the site is wholly contained within an area zoned Sustainable Residential Conservation Area – Zone Z2 where the land use zoning objective is “*to protect and / or improve the*

*amenities of residential conservation areas*” and where residential development is a permissible use. Accordingly, the principle of the development of a mews house at this location is acceptable in principle subject to compliance, with the relevant policies, standards and requirements set out in plan.

### **7.3. Traffic Safety**

- 7.3.1. The main issue in this appeal relates to inadequate access to the site that will result in a traffic hazard. It is noted that the appellants house, No 81a Strand Road is located perpendicular to the appeal site with the appellants front door proximate to the appeal site access (site photos refer). To this end concern is raised with regard to the potential need for future additional car parking serving the appellants property; that vehicular access will conflict with the appellants front door; that the laneway is too narrow and that there are inadequate sightlines at the junction with Strand Road.
- 7.3.2. Regarding any future additional car parking serving the appellants property located to the front of their house and its impact on the appeal site I would set out the following. While it is noted that the most recent mews development on the adjoining site to the north appears to have off street carparking there is currently no off street or designated / demarcated on street car parking spaces serving either the appellants property or the two terraced houses to the north of the appeal site (site photos refer). This results in cars parked on the laneway outside houses presumably where space arises. Having regard to the information available on file together with the layout and configuration of this private laneway I am satisfied that in terms of planning requirements there is an acceptable degree of capacity to accommodate additional parking proximate to the appellants house without impeding traffic movements and associated turning requirements of existing or future users of this laneway. In the event that any additional parking was to obstruct the entrance to the appeal site this would be a private matter between the relevant parties.
- 7.3.3. With regard to the concerns raised that the vehicular access to the appeal will conflict with the appellants front door I refer to the site photos attached and note the location and proximity of the appeal site and appellants dwelling. It is clearly evident that the proposal will result in the vehicular movement of one car associated with the proposed development near the appellants front door. However, as pointed out by the applicant

this type of situation, where vehicular traffic moves along a narrow laneway in close proximity to the entrances to other houses, arises regularly in mews lanes where houses front directly onto the mews lane. On balance I consider the development of a mews dwelling with off street carparking at the end of this cul de sac on lands zoned and serviced for development and where an increase in housing density is to be encouraged to be acceptable.

7.3.4. With regard to the capacity of the laneway it was observed on day of site inspection that this is a private single lane vehicular carriageway with no pedestrian footpaths that is in need of some maintenance and repair. The laneway currently serves a cul de sac of 4 no mews houses. The appeal site appears to be only one of five sites with access to the laneway that remains undeveloped. Having regard to the information on the appeal file it also appears that the laneway currently provides for the safe vehicular and pedestrian movements associated with the four existing mews houses. To this end I generally agree with the applicant that the successful future operation of the laneway in functional terms is dependent on cooperation amongst all of the stakeholders. However, while this is a narrow private laneway, I do not consider that the scheme would place an excessive traffic loading on the laneway that would merit a refusal of permission. Any increase in pedestrian and traffic movement associated with the proposed scheme would be modest in the context of such an urban context and the established pattern of development on the lane and is therefore acceptable.

7.3.5. With regard to the junction of the laneway and Strand Road I am satisfied given the urban location of the junction and the established use of same for access / egress to this residential cul de sac that the vehicular movements generated by the proposed development would be relatively modest. I am further satisfied that the scheme would not have a material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements at this junction particularly taking into account the location and scale of the development. Accordingly, I am satisfied that the proposed development provides for a safe means of access to and from the site which will not result in the creation of a traffic hazard and that the proposed development would function satisfactorily from a traffic point of view.

## 7.4. Scale & Character

7.4.1. The appellants raise concerns that the scale and positioning of the two-storey dwelling is contrary to the established pattern of development and Section 16.10.16 of the Development Plan. Section 16.10.16 Mews Dwellings sets out a number of objectives that are relevant to the assessment of this scheme (Sections c, e, g, h, i, j and l) (as set out in Section 5.1.1 above). I have considered these requirements and I am satisfied that

c) – The scheme is confined to two storeys, is subordinate in height and scale to the main building, there is sufficient depth between the main building and the proposed mews building to ensure privacy and there is an acceptable level of open space provision.

e) – The laneway comprises 4 no residential units of mixed character and design. The proposed mews is acceptable in terms of design, scale, massing, height, building depth, roof treatment and materials. Having regard to the setback of the scheme from the laneway in order to accommodate off street car parking together with the variety of building lines in the immediate area I consider the location of the building within the appeal site to be acceptable.

g) - One off-street car space is provided.

h) – There is adequate provision of off street car parking to the front of the main house (site photos refer)

i) – The access laneway is acceptable in order to facilitate access to the site. See Section 7.3 above.

j) – Adequate private open space is to be provided to the rear of the mews building.

l) - The distance between the opposing windows of mews dwellings and of the main houses is in excess of the minimum 22 m.

7.4.2. As documented the character of the laneway comprises a number of different elements including the arrangement and juxtaposition of buildings, the architectural style and form (scale and height) of buildings together with considerations of materials and colour. The development as proposed forms a compatible, innovative interpretation of the traditional mews development without compromising the amenity space to the rear of the main house or that of adjoining properties by reason of overlooking or overshadowing. Overall, I consider the sub-division of the existing

house to provide an additional dwelling to be acceptable and I am satisfied that the proposal complies with the relevant requirements of Section 16.10.16 of the Development Plan and that to permit same would not contravene the zoning objective for the site.

## 7.5. Flood Risk

- 7.5.1. The appellant is concerned that the proposal will significantly increase the potential for the surrounding area to flood. I refer to the Drainage Report and Flood Risk Assessment available to view on the planning file. There are no records of flooding on this site. The available flood data indicates that this site is in the low (1: 1,000) risk area for tidal and fluvial flooding. There is no basement associated with the proposed building and it is stated that standard detailing of the new building will be used to prevent damp ingress.
- 7.5.2. As pointed out by the applicant the reports state that all aspects of drainage associated with the proposal will be contained within the site and will not impact on the adjoining laneway; flood relief measures, including a flood barrier at the entrance to the lane, is proposed to offset the threat of any flooding which might affect the property. I agree with the applicant that any ponding on the laneway is the result of the poor surface water treatment and that this will not be further exacerbated by the proposed development.
- 7.5.3. Having regard to the information available on file I am satisfied that the potential impacts of the proposed development in terms of flooding have been established and that the type of development proposed is appropriate for this area. I do not consider that the proposed development would exacerbate the risk of flooding in the area.

## 7.6. Other Issues

- 7.6.1. **Property Values** – The scheme before the Board is for a new dwelling house to the rear of an existing house, within a serviced urban area where such developments are considered a permissible use and where it is reasonable to expect developments of this kind would normally be located. Therefore, the proposed scheme is not considered to be a bad neighbour in this context, and I do not therefore consider that to permit this development would lead to a significant devaluation of property values

in the vicinity. Accordingly, I am satisfied that this matter is not material to the consideration of this appeal.

7.6.2. **Appropriate Assessment** - Having regard to the nature and scale of the proposed development comprising the construction of a house and its distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.6.3. **Development Contributions** – Dublin City Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 2<sup>nd</sup> March 2020 (DCC Development Contribution Scheme 2020-2023 refers). The proposed development does not fall under the exemptions listed in the scheme and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

## 8.0 Recommendation

8.1. It is recommended that permission be **GRANTED** subject to the reasons and considerations set out below

## 9.0 Reasons and Considerations

9.1. Having regard to the site's location on serviced urban lands and the policy and objective provisions in the Dun Laoghaire Rathdown County Development Plan 2016-2022 in respect of residential development, the nature, scale and design of the proposed development, to the pattern of existing and permitted 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 and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area



## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 4<sup>th</sup> April 2019 as amended by further plans and particulars submitted on the 27<sup>th</sup> August 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. Details of the materials, colours and textures of all the external finishes and boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. 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.

4. The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health

5. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 to 1400 hours on Saturdays and not at all on Sundays and Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of adjoining property in the vicinity

6. All necessary measures shall be taken by the Applicant and Contractor to avoid conflict between construction activities and vehicular / pedestrian movements on the laneway. Details shall be agreed with the Planning Authority prior to commencement of work on site.

**Reason:** In the interests of traffic and pedestrian safety

7.
  - a) The vehicular entrance shall not have outward opening gates.
  - b) All costs incurred by Dublin City Council, including any repairs to the public road and services be necessary as a result of the development, shall be at the expense of the developer.
  - c) The developer shall be obliged to comply with the requirements set out in the Code of Practise.

**Reason:** In order to ensure a satisfactory standard of development

8. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

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

9. 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.

**Reason:** In the interest of sustainable waste management.

10. 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 the 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

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**Mary Crowley**

**Senior Planning Inspector**

**27<sup>th</sup> March 2020**