



An
Bord
Pleanála

Inspector's Report

ABP-305897-19

Development	PROTECTED STRUCTURE: Demolition of a mid-twentieth century garage; the construction of a three-storey townhouse.
Location	55 Waterloo Lane, Dublin 4, (to the rear of No 55 Waterloo Road, Dublin 4, a Protected Structure)
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3851/19
Applicant(s)	Kathleen Garrett
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	John O'Donohue
Observer(s)	None
Date of Site Inspection	9 th March 2020
Inspector	Irené McCormack

1.0 Site Location and Description

- 1.1. The appeal site is located to the rear of no. 55 Waterloo Road, a protected structure. The site is located on the northern eastern side of Waterloo Lane which from its junction with Upper Leeson Street runs parallel between Burlington Road and Waterloo Road.
- 1.2. There is currently a single storey garage and car port in place on the site with vehicular access from Waterloo Lane. The laneway is an established mews lane with mews dwellings on either side of the subject site.

2.0 Proposed Development

- 2.1. Permission is sought for:
 - The demolition of a mid-twentieth century detached single storey garage
 - The construction of a three bedroom, three-storey townhouse (including basement) of 222.34sqm with 3 Velux rooflights to front slope
 - One car-parking space, bin and bicycle storage and a new eastern boundary dividing fence 1.8m high, a below ground rainwater attenuation tank and a new pedestrian gate to the lane.
- 2.2. The proposed dwelling will reflect an infill dwelling between two existing two-storey mews dwellings. The design reflects a modern dwelling with large glazed openings finished in red brick with a standing seam roof finish.
- 2.3. The proposed building line is consistent with the adjoining mews dwellings fronting Waterloo Lane and the rear building line will be set back from the rear return of no. 55 Waterloo Road by approx. 24m. The rear private open space for each dwelling is in excess of 70sqm.
 - 2.3.1. A revised vehicular entrance and new pedestrian entrance are proposed fronting Waterloo Lane, to serve the mews.
 - 2.3.2. The application was accompanied by an Conservation Method Statement and A Flood Risk Statement.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted for the development subject to 10 conditions, the following of which are of note:

C 3 Prior to the commencement of development the applicant is required to submit a structural engineering report for the development which shows that the construction can take place without negatively impacting on the neighbouring properties.

C 4 relates to finishes

C 8 (iii) stipulated: To minimise the risk of basement flooding, all internal basement drainage must be lifted, via pumping, to a maximum depth of 1.5 metres below ground level before being discharged by gravity from the site to the public sewer.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report notes that the principle of mews development has been established along the rear laneway. It is stated that the proposed basement is set far enough away from the Protected Structure. Concerns is expressed regarding existing boundary walls and the neighbouring properties along Waterloo Lane. A condition requiring a structural engineers report recommended. It is noted that no details have been submitted on the external finishes, but it appears that the front and rear elevations are to be brick. It is set out that the external finishes can be approved by way of a compliance. The planner's report recommended that planning permission be granted subject to 10 conditions.

3.2.2. Other Technical Reports

Drainage Division -No objection subject to specific requirements.

Conservation Department - Verbal report noted in the planning report setting out that the development is similar to existing permission DCC Reg. Ref. 3031/19.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

The Area Planner in their report refers to receipt of one submission in relation to the development. A brief summary of the issues raised in the submission to the Planning Authority are set out below:

- Proposal deviates from the established pattern of development which is for two storey units.
- Overdevelopment of site
- No technical details regarding excavation submitted
- Impact of the development on the stone boundary walls
- Query as to how to flash and weather over the retained stone garden walls or how it is intended to plaster the blind gable walls of the proposed house
- Issues with construction and traffic implications
- Rodding and access must be open for existing soil vent pipes and gas pipes strapped to the gable of No.57.
- The roof space appears like it could accommodate additional accommodation allowing for 4 levels, which is considered excessive

4.0 Planning History

Site

DCC Reg. Ref. 3031/19 – Permission granted in 2019 for the demolition of a mid-twentieth century detached single storey garage; the construction of a three bedroom, two-storey townhouse c. 167 sqm with 3 Velux roof lights to front slope, with one car-parking space, bin and bicycle storage, and a new eastern boundary dividing fence 1.8m high, a below ground rainwater attenuation tank and a new pedestrian gate to lane.

Note: The proposed application is identical to the above save for the addition of the basement level.

Adjoining

ABP 305836-19 / DCC Reg. Ref.3755/419 permission granted in 2020 for Demolition of existing two-storey house, construction of two storey over basement

house with a courtyard and lower garden at basement level, a rear garden at ground level, a balcony at first floor level, an enlarged vehicular entrance and two on site car spaces. and site works at no. 66 Waterloo lane.

5.0 Policy Context

5.1. Development Plan

5.2. Dublin City Council Development Plan 2016-2022.

- 5.2.1. The zoning objective relating to the site is land use zoning objective Z2 “to protect and/or improve the amenities of residential conservation areas”. No. 55 Waterloo Road is a protected structure.

Chapter 5 of the Development Plan specifically relates to housing. Policy QH5 seeks to promote residential development addressing any shortfall in housing provision to active land management and a coordinated planned approach to developing appropriately zoned land at key locations including regeneration areas, vacant sites and underutilised sites.

Policy QH8: To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

- 5.2.2. In terms of Conservation Areas, Dublin City Council seek to ensure the development proposals within all Architectural Conservation Areas and conservation areas complement the character of the area and comply with development standards.

Conservation Areas

Policy CHC4: To protect the special interest and character of all Dublin’s Conservation Areas (11.1.5.4). Development within or affecting all conservation areas will contribute positively to the character and distinctiveness; and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

- 5.2.3. Protected Structures

Record of Protected Structures (Volume 3 of the 2016-2022 Dublin City Development Plan).

Policy CHC1: To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

As the building is also located within an areas zoned for residential conservation purposes those sections of the plan relating to Z2-zoned areas are applicable to this application.

Policy CHC2: It is the policy of Dublin City Council to ensure that the special interest of protected structures is protected.

5.2.4. Specific policies in relation to mews dwellings are set out below.

16.10.16 Mews Dwellings states:-

(a) Dublin City Council will actively encourage schemes which provide a unified approach to the development of residential mews lanes and where consensus between all property owners has been agreed. This unified approach framework is the preferred alternative to individual development proposals.

(b) 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 is subordinate in height and scale to the main building and 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 resulting traffic conditions and where the apartment units are a sufficient size to provide a high quality residential environment. This is in line with national policy to promote increased residential densities in proximity to the city centre.

(c) Mews buildings may be permitted in the form of terraces, but flat blocks are not generally considered suitable in mews laneway locations.

(d) 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 the established building lines and plot width.

(e) The amalgamation or subdivision of plots on mews lanes will generally not be encouraged. The provision of rear access to the main frontage premises shall be sought where possible. All parking provision in mews lanes will be in off-street garages, forecourts or courtyards. One-off street car parking space should be provided for each mews building subject to conservation and access criteria.

(f) 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. The provision will not apply where the objective to eliminate existing unauthorised and excessive off-street car parking is being sought.

(g) The potential mews laneways must have a minimum carriageway of 4.8 metres in width and 5.5 metres where no verges or footprints are provided. All mews lanes will be considered to be shared surfaces and footpaths need not necessarily be provided.

(h) In terms of private open space such space shall be provided to the rear of a mews building and shall be landscaped so as to provide a quality residential environment. The depth of the open space for the full width of the site will not generally be less than 7.5 metres unless it is demonstrably impractical to achieve and shall not be obstructed by off-street parking. Where the 7.5 metres standard is provided, the 10 square metre of private open space per bed space standard may be relaxed.

(i) If the main house is in multiple occupancy, the amount of private space remaining after the subdivision of the garden for mews development shall meet both the private open space requirements for multiple dwellings and for mews developments.

(j) The distance between opposing windows of mews dwellings and the main house shall generally be a minimum of 22 metres. 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.

5.2.5. Chapter 16 of the development plan sets out details of development standards. Standards are contained for minimum floor areas for dwellings, requirements for natural lighting and ventilation, private open space standards, safety and security

and acoustic privacy. These standards will be referred to where relevant in my assessment below.

- 5.2.6. Section 16.10.15: Basements - It is the policy of Dublin City Council to discourage any significant underground or basement development or excavations below ground level of, or adjacent to, residential properties in Conservation Areas or properties which are listed on the Record of Protected Structures. Development of all basements or any above ground buildings for residential use below the estimated flood levels for flood zone areas 'Zone A' or 'Zone B' will not be permitted (Policy SI13).

Section 9.5.4

- 5.2.7. Parking: Area 2 applies to the appeal site. 1 car parking space is required per residential unit. Parking provision below the maximum may be permitted provided it does not impact negatively on the amenities of surrounding properties or areas and there is no potential negative impact on traffic safety.

National Legalisation

Architectural Heritage Protection Guidelines (2004)

5.3. Natural Heritage Designations

There are two designed sites within 2.4km of the site.

- South Dublin Bay SAC (Site code: 000210)
- South Dublin Bay & River Tolka Estuary SPA (Site code: 004024)

5.4. EIA Screening

Having regard to the nature and scale of the proposed development, the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- It is set out that Dublin City Council as taken no account of the deep infill format proposed i.e. the applicant has not been asked to prove the demand, or due diligence in advance of a planning decision.
- The appellant states that he was on holidays when the previous planning application was submitted (3031/19) and in retrospect he had no particular issue with the two-storey house with traditional shallow strip foundations.
- The current application for a three-storey house deviates in scale and mass form the established pattern and is therefore overdevelopment of a relatively confined site where plot ratio and site coverage is exceeded.
- It is set out that there are no technical details submitted in terms of sub-ground construction works and flashing over retained garden walls, required to prevent potential damp problems to adjacent properties.
- It is set out that car parking requirement is underprovided
- The adverse impact of basement construction in an infill context is queried and the impact of services and connection to services.
- It is set out that construction traffic, structural disturbance, deliveries and noise pollution will persist for up to 10 months.
- It is set out that the design provides for the potential to convert the attic to a fourth floor.

6.2. Applicant Response

- It is set out that the building reads as a two-storey as its width, depth and height are nearly identical to the other mews houses on the lane.
- It is set out that plot ratio is unchanged as basements are not considered in the assessment of plat ratio.
- In relation to the impact on adjoining properties, it is acknowledged that the onus is on the applicant to ensure no damage is caused to adjoining

properties and the applicant will engage a suitably qualified engineer in this regard.

- It is further stated that basements are common in mews lanes.
- Basement construction phase drawings accompanied the submission to the Board. The drawings set out that the south wall of the basement is set back from the boundary to allow the boundary wall and the appellants house to be adequately supported. The basement areas to the front and rear are shown as abutting the inside (north) face of the boundary walls. It is set out that these can be moved northwards by 1m if required by condition.
- It is set out that car parking is consistent with the other mews dwellings
- It is set out that the shelf on the top of the garden wall is unchanged and will become a matter of joint responsibility.
- It is set out that it would not be acceptable or reasonable to sterilise the development of the site to allow access to waste pipes serving the adjoining site.
- It is set out that attic accommodation is not sought.
- It is set out that the construction process will be subject the same noise controls and time limits as all other construction sites in Dublin.

6.3. Planning Authority Response

None

7.0 Assessment

7.1. Introduction

The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Design and layout
- Provision of a Basement

- Construction Management, Traffic and Construction Disturbance
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The proposed mews is a two-storey over basement dwelling located to the rear of no. 55 Waterloo Road, a protected structure and is an infill site bounded on both sides by two existing two-storey mews dwellings. The site is accessed via a Waterloo lane, an established mews lane with mews dwellings on either side.
- 7.2.2. The site is zoned Z2 -Residential Neighbourhoods (Conservation Areas) with the following objective; 'To protect and/or improve the amenities of residential conservation areas.'. Residential is a permissible use within this zoning category. As such the proposal is acceptable in principle, subject to the detailed considerations below.
- 7.2.3. I consider that the proposal generally complies with the requirements for mews developments as set out in the development plan in that the site is of sufficient size to accommodate a mews dwelling. The laneway serving the mews dwelling is of sufficient width to cater for traffic associated and the provision of off-street car parking etc. is in accordance with the requirements of the development plan. There is no issue with car parking provision on site.

7.3. Design and layout

- 7.3.1. Policy 16.2.2.2 *Infill Development* of the Dublin City Development Plan 2016-2022 deals with Infill development– allowing for houses that respect and complement the prevailing scale, architectural quality and the degree of uniformity in the surrounding townscape. Such development shall have regard to the building plot widths, architectural form and the materials and detailing of existing buildings, where these contribute positively to the character and appearance of the area. Section 16.10.16 *Mews Dwellings* of the Development Plan actively encourages Mews dwellings which provide a unified approach to the development of residential mews lanes and where consensus between all property owners has been agreed.
- 7.3.2. The third-party grounds of appeal assert that the three-storey house deviates in scale and mass form the established pattern and is therefore overdevelopment of a relatively confined site where plot ratio and site coverage is exceeded. The applicant argues the

building reads as a two-storey and its width, depth and height are nearly identical to the other mews houses on the lane. I would agree and I note that the proposed application is identical in height, depth and design to DCC Reg. Ref. 3031/19 save for the addition of the proposed basement level. In this regard I note the appellant sets out in his appeal submission that he had no particular issue with the previous application.

7.3.3. Site inspection indicated that the general character of the area has been altered over time with the insertion of other infill mews dwellings adjoining the site. In my opinion the **design** of the proposed dwelling reflects the general character of the adjoining mews dwellings in terms of scale and mass, front building line and height. I note the planning authority has included a condition requiring all finishes to be agreed. Whilst, I note the drawings would indicate the use of a red brick finish and standing seam roof no details have been specified on the drawings. Should the Board be minded to grant planning permission, I consider this condition should be repeated in this instance. I consider the principle of the development is in line with Section 16.10.16 *Mews Dwellings* of the Development Plan.

7.3.4. In terms of **overdevelopment** of the site. The layout provides for open space to the front and rear of the site. The minimum requirement for private open space provision as set out in Chapter 16 of the Dublin City Development Plan 2016-2022 is 60-70 sqm of rear garden space. In relation to Mews dwellings Section 16.10.16 (h) states that such space shall be provided to the rear of a mews building and shall be landscaped so as to provide a quality residential environment. In addition to a front garden area the layout provides for a private rear garden of in excess of 70sqm for both the proposed mews and No. 55 Waterloo Road. The floor area of the dwelling is 222.3sqm with a ground floor area of 85.8sqm. There is no issue with plot ratio and site coverage on the site and current policy objectives and national guidance encourage the development of infill sites and increased densities.

7.4. **Provision of a New Basement**

7.4.1. The proposed development includes a basement level ca. 53.3sqm in area. The proposed basement will accommodate a playroom, workshop, laundry room and sunken garden areas to both the front and rear of the house.

- 7.4.2. I note that site is not located in a Flood Zone A or Flood Zone B and policy SI13 of the Development Plan does not apply. In response to the appeal the applicant has submitted basement construction phase drawings. A review of the drawings submitted would indicate that all below ground level piling is identified approx. 200mm set back from the shared site boundaries to the north and south of the site. The retaining wall of the basement is identified as a wholly independent structure removed from the adjoining boundaries both to the north and south of the site.
- 7.4.3. The basement areas to the front and rear are shown as abutting the inside (north) face of the boundary walls with no. 57 Waterloo (the appellants property). It is set out that these can be moved northwards by 1m if required by condition. As the works are proposed independent of the adjoining site, I do not consider the setting back a portion of the basement walls abutting no. 57 Waterloo Lane is necessary in this instance.
- 7.4.4. I note the Engineering Department Drainage Division raised no objection to the proposed development subject to lifting all internal basement drainage via pumping, to a maximum depth of 1.5 metres below ground level before being discharged by gravity from the site to the public sewer. The planning authority attached a condition in this regard. Should the Board be minded to grant planning permission, I consider this condition should be repeated in this instance.
- 7.4.5. **Construction Management, Traffic and Construction Disturbance**
- 7.4.6. The appellant has expressed concerns with respect to the shared boundary walls and the requirement to provide flashing over the retained garden walls to prevent potential damp problems impacting adjacent properties. In addition, the appellant has raised concerns with regard connection to services and access to services going forward.
- 7.4.7. In response the applicant sets out that the shelf on the top of the garden wall is unchanged and will become a matter of joint responsibility. In relation to connection to existing services, it is set out that it would not be acceptable or reasonable to sterilise the development of the site to allow access to waste pipes serving the adjoining site. I agree.
- 7.4.8. I further note that in relation to the impact on adjoining properties, the applicant acknowledges that the onus is on the applicant to ensure no damage is caused to

adjoining properties during construction and development works. I note the applicant intends to engage a suitably qualified engineer in this regard.

7.4.9. In relation to the disturbance caused by construction works for the duration of the building works. I note these works are for a limited time frame and will be required to adhere to appropriate working hours. I further note that the development will be subject to a construction management plan.

7.5. **Other Matters**

The appellant has expressed concerns with respect the potential to convert the **attic** for additional habitable accommodation. In response the applicant states that attic accommodation is not sought. Notwithstanding, I note that the design provides for a large lightwell in the roof which reduces the useable attic area and the use of the attic for habitable accommodation will be required to adhere to Building Regulations.

7.6. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

I recommend that planning permission be **GRANTED** for the proposed development having regard to the reasons and considerations and subject to conditions as set out below.

9.0 **Reasons and Considerations**

Having regard to the nature and scale of the proposed development, the pattern of development in the vicinity, the existing development on site and the policies of the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would not detract from the character or setting of the adjacent Protected Structure. 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 lodged with the application and by the further plans and particulars received by An Bord Pleanála on the 9th December 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. Prior to the commencement of development, details of materials, colours and textures of all external finishes to the proposed mews dwellings shall be submitted to the planning authority for written agreement.

Reason: In the interest of visual amenity.

3. The mews dwelling shall be used as a single dwelling unit only.

Reason: To ensure that the development will not be out of character with the existing residential development in the area.

4. (a) Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

(b) All internal basement drainage must be lifted, via pumping, to a maximum depth of 1.5 metres below ground level before being discharged by gravity from the site to the public sewer.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure a satisfactory form of development and to minimise the risk of basement flooding and in the interest of public health

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, 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: To protect the residential amenities of property in the vicinity of the site.

6. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity

7. 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.

Irené McCormack
Planning Inspector

10th March 2020