



An
Bord
Pleanála

Inspector's Report ABP306245-19

Development	Construction of a new two-storey mews development with associated bicycle spaces to replace granted permission for a two car garage and associated car parking spaces to rear.
Location	No. 1 Sydenham Road, Ballsbridge, Dublin 4.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	4142/10.
Applicant	James Coyle.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party -v- Refusal.
Appellant	James Coyle.
Observers	Paula Bolger
Date of Site Inspection	27 th April 2020
Inspector	Paul Caprani

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1.0 Introduction

ABP306245-19 relates to a first party appeal against the decision of Dublin City Council to issue notification to refuse planning permission for a detached new two-storey mews to the rear of a dwellinghouse at 1 Sydenham Road, Ballsbridge, Dublin 4. Dublin City Council issued notification to refuse planning permission on the basis that the proposed laneway is a substandard width and would result in pedestrian and vehicular conflict.

2.0 Site Location and Description

- 2.1. The subject site is located on the eastern side of Sydenham Road a small residential cul-de-sac off the Merrion Road directly opposite the RDS in Ballsbridge to the south of Dublin City Centre. Sydenham Road accommodates a total of 10 late Victorian/Edwardian-style two-storey red-bricked townhouses with projecting bay windows on the front elevation. No. 1 Sydenham Road is located on the eastern side and forms part of a block of four terraced dwellings which face north-westwards onto the street. The dwellings are situated on long elongated plots. The plot width of each of the dwellings is between 6.6 and 7.6 metres in width with an overall depth of between 50 and 60 metres. No. 1 is located to the immediate north-east of a narrow laneway which separates the block of terraced dwellings with their rear gardens/plots of dwellings which front onto the Merrion Road.
- 2.2. No. 1 Sydenham Road accommodates a relatively large dwellinghouse with a three-storey return to the rear. The rear garden/yard is estimated to be approximately 26th metres in length. A small single-storey L-spaced cottage, together with a small garden is located contiguous to the rear of No. 1 and 2 Sydenham Road. The dwelling faces southwards onto the rear garden. The remainder of the rear garden does not incorporate a boundary wall along the laneway and is currently used for car parking. Two no. wooden garden sheds are also located to the rear of the main dwelling. The laneway incorporates an acute bend to the rear of the site providing access to the rear of the other terraced dwellings adjacent to No. 1. Mature trees are

located along the rear of the laneway. The laneway also serves a number of surface car parking spaces to the rear of the buildings fronting onto Merrion Road.

- 2.3. The laneway which runs along the side of No. 1 is between 2.1 and 2.9 metres in width but increases in width to over 5 metres in the section of laneway which runs to the rear of the houses in question. No. 1 Sydenham Road appears to be subdivided into a number of separate apartments.

3.0 Proposed Development

- 3.1. Planning permission is sought for a detached two-storey mews dwelling to be located at the rear of the site. The proposed mews dwelling is rectangular in shape and occupies a gross floor area of 93 square metres. It is to accommodate a kitchen, dining and lounge area at ground floor level together with a toilet and storage area. It is proposed to provide two bedrooms (one en-suite) and a bathroom at first floor level. The building is approximately 6.6 metres in width and 8 metres in depth. It is also to accommodate a rear garden c.8.8 metres in depth. The private open space amounts to 42 square metres and is to accommodate a small store area, a plant room and a landscaped courtyard area. Eight cycle parking spaces are to be provided between the laneway and the landscaped open space.
- 3.2. The dwelling is to incorporate a pitched roof with zinc clad dormer windows on both sides of the roof pitch. The mews dwelling is to rise to a height of 6.6 metres and is to incorporate a brick clad finish together with a sand cement render finish on the external elevations.

4.0 Planning Authority's Decision

4.1. Decision

- 4.1.1. Dublin City Council issued notification to refuse planning permission for a single reason which is set out in full below.

The proposed development is contrary to the Dublin City Development Plan 2016-2022 and in particular Section 16.10.16 "mews dwellings" in terms of the width of the existing laneway. The proposed laneway is of substandard width and the proposed use would result in pedestrian and vehicular conflict. It would set an undesirable

precedent and would endanger the health and safety of persons occupying the structure by reason of a traffic hazard. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

4.2. Documentation Submitted with the Application

- 4.2.1. Along with the planning application form, planning fee, drawings and public notices etc. the architect on behalf of the applicant submitted a covering letter which states that the proposed development involves replacing car parking spaces associated with the main house with bicycle spaces and providing a new mews type dwelling unit which meets the requirements set out in the current development plan. It is also stated that the design and form is not out of character with the surrounding built environment. The car parking spaces associated with the main house have been replaced by bicycle spaces and this is justified on the principle that the site is located close the Dart line.

4.3. Planning Authority Assessment

- 4.3.1. The Engineering Department Drainage Division notes that the subject site is located in Flood Zone A and B and that the permission should be withheld until the developer submits an appropriate Flood Risk Assessment for the proposed development.

4.4. Observations

- 4.4.1. One observation was submitted from the adjoining neighbour at No. 3 Sydenham Road. This observation expresses concerns in relation to traffic and safety, refuse collection arrangements and private open space and overlooking.

4.5. Internal Reports

- 4.5.1. A report from the Roads, Streets and Traffic Department states that the division would have serious concerns in relation to how a mews dwelling would be constructed giving characteristics of the site and access. The laneway is between 2.1 and 2.9 metres in width. The requirements in terms of laneway width for this type of development is the minimum of 4.8 to 5.5 metres where no verges or footpaths

are provided. It is recommended therefore that planning permission be refused for the proposed development.

- 4.5.2. The planner's report sets out details of the planning policy relating to the site and the various internal reports and submissions made in respect of the proposed development. The extensive planning history associated with the subject site and dwellings in the vicinity of the site is also set out in the report.
- 4.5.3. The planning assessment sets out details of the previous applications relating to the site and notes concerns regarding the overall development of the site and the quantum of development which is sought.
- 4.5.4. Concerns are also expressed in relation to the laneway serving the site and the development plan requirement that potential mews laneways must have a minimum carriageway of 4.8 metres in width. It is noted that there is a pinch point along the laneway and that the report from the Transportation Planning Division expresses concerns regarding the width of the laneway.
- 4.5.5. The report notes that the dwelling to the front of the site is in multiple occupancy which is accessed from both the front and rear of the property. The subject proposal seeks to provide an additional mews dwelling which would increase footfall and pedestrian movement along the existing laneway and serious concerns are raised in this regard. Also having regard to the minimum requirements for laneways to serve mews developments, it is recommended that planning permission be refused for the development.
- 4.5.6. On this basis Dublin City Council refused planning permission for the proposed development for the sole reason referred to above.

5.0 Planning History

- 5.1. No appeal files are attached.
- 5.2. Details of a number of applications relating to the development and the adjoining site are contained in a pouch to the rear of the file and are summarised below.

Under **Reg. Ref. 4481/17** Dublin City Council issued notification to grant planning permission on the 31st August, 2018 to the rear of No. 1 Sydenham Road for a new detached two car garage with storage and attic space and the re-planning of the rear

garden to provide four car parking spaces and six car parking spaces and an increase in private open space associated with the main house. Planning permission was granted on the 31st August, 2018 subject to 12 conditions.

Under **Reg. Ref. 4090/19** relates to no. 3 Sydenham Road. Planning permission and retention of planning permission was refused to retain and complete alterations to previously approved application under Reg. 3546/17 for the construction of a detached garage building to the converted attic space and a change of use of the detached garage building to a two-bedroom, two-storey mews house. Planning permission was refused on the basis that the proposed laneway is of a substandard width and would result in pedestrian and vehicular conflict and would create an undesirable precedent for similar type developments.

- 5.3. Other planning applications are referred to in the planning report. These are briefly summarised below.

Under Reg. Ref. 2662/00 planning permission was granted at No. 1 Sydenham Road for extensions and alterations to the side and rear on three floors of the dwellinghouse. Condition No. 2 of this grant of permission states that there will be a maximum of five dwelling units on the site.

At No. 5 Sydenham Road, under Reg. Ref. 3697/05 An Bord Pleanála under PL29S.249412 upheld the decision of Dublin City Council and granted planning permission for a detached garage building with a pitched roof with storage accommodation in the attic space. This decision was granted 31st January, 2018.

Other applications relating to development at No. 5 and 7 Sydenham Road are set out in the planner's report.

6.0 Development Plan Provision

- 6.1. The subject site is governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022.
- 6.2. The subject site is zoned Z1 "to protect, provide and improve residential amenities".
- 6.3. Section 16.10.16 specifically relates to mews dwellings. It states the following:
- (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 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
 - 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.

- (c) Mews buildings may be permitted in the form of a terraces, but flat blocks are not generally considered suitable in mews laneways locations.
- (d) New buildings should complement the character of both the mews lane and the 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 buildings lines and plot width. Depending on the context of the location, mews buildings may be required to incorporate gable ended pitched roofs.
- (e) The amalgamation or subdivision of plots and mews lanes will generally not be encouraged. The provision of rear access to the main frontage premises shall be sought where possible.
- (f) All parking provision and 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.

- (g) New mews development should not inhibit vehicular access to car parking spaces 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.
- (h) Potential mews laneways must have a minimum carriageway of 4.8 metres in width (5.5 metres where no verges or footpaths are provided). All mews lanes will be considered to be shared surfaces, and footpaths need not necessarily be provided.
- (i) Private open space shall be provided to the rear of the mews building and shall be landscaped so as to provide for quality residential environment. The depth of this open space for the full width of the site will generally be less than 7.5 metres unless it can be demonstrably impractical to achieve and shall not be obstructed by off-street parking. Where the 7.5 metre standard is provided, the 10 square metre of private open space for bedspace may be relaxed.
- (j) If the main house is in multiple occupancy, the amount of private open 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.
- (k) The distance between the opposing windows and mews dwellings and the main houses 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 adequate setting, including amenity space, for both the main building and the mews dwelling.

6.4. Natural Heritage Designations

- 6.4.1. The subject site is not located within or adjacent to a Natura 2000 site, a Natural Heritage Area or a proposed Natural Heritage Area. The nearest Natura 2000 sites are located in an around Dublin Bay over 1 kilometre to the east of the subject site.

7.0 Grounds of Appeal

7.1. The decision of Dublin City Council was the subject of a first party appeal on behalf of the applicant by Roger Hofler, Architects. The grounds of appeal are outlined below.

- The proposed mews development is in general compliance with Section 16.10.16 of the development plan. The proposal is located to the rear of a substantial garden to the main house at No. 1 Sydenham Road.
- Permission was granted under Reg. Ref. 4481/17 for a new detached two car garage with attic space and no reference was made to lane widths in this approved application.
- It is not proposed to provide any parking spaces in the proposed mews development. The development is located beside a major bus route on Merrion Road and close to the Dart network. Two bicycle spaces have been provided for the mews development on site.
- The lane has a width of 3.5 metres at the entrance of Sydenham Road and it widens out to 4 metres thereafter.
- It is suggested that the various requirements set out under Section 16.10.16 of the development plan have a degree of flexibility and should not be viewed as rigid requirements.
- There is a mews building on Sydenham Road behind House No. 2. This mews has an access lane less than 4.5 metres in width and therefore there is a precedent in the area for mews lanes of less than 4.5 metres.

7.2. Appeal Responses

7.2.1. Dublin City Council have not submitted a response to the grounds of appeal.

8.0 Observations

8.1. One observation was submitted on behalf of the resident of No. 3 Sydenham Road (adjoining house). It states that the observer is not anti-development and would be supportive of this type of development at this location. The observer however request confirmation that the present rights of way/vehicle passing arrangements

that are currently enjoyed along the access will not be hampered or reduced in any way by the proposed development.

9.0 EIA Screening Determination

Having regard to the nature of the development comprising of a single dwelling in an urban area it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can therefore be excluded by way of preliminary examination.

10.0 Planning Assessment

10.1. I have read the entire contents of the file, visited the site and its surroundings and have had particular regard to the Planning Authority's reason for refusal and the first party appeal in relation to the reason for refusal. I consider that the Board can generally restrict its deliberations to the issue raised in the grounds of appeal as to whether or not the proposed development would result in pedestrian and vehicular conflict on the basis that it is served by a laneway which is of substandard width.

10.2. The principle of a mews dwelling on the subject site is in my view acceptable in principle on the basis that a residential unit to the rear of No. 1 Sydenham Road would be fully compliant with the land use zoning objectives and would comply with national strategic policy which seeks to make the most efficient use of service lands and to provide more compact development within the confines of urban areas.

10.3. Access Arrangements

10.4. Notwithstanding the principle of developing a residential mews dwelling on the subject site the Board must be satisfied that the access arrangements are suitable to cater for a mews dwelling at this location. In order for a mews development to take place on the subject site the existing parking which is currently provided for the five apartments on site to the rear of the laneway would be required to be removed. I do acknowledge that the site is located adjacent to the Merrion Road which accommodates frequent and regular bus services and is also located within 500 metres of Sandymount Dart Station. A reasonable argument can therefore be put

forward for removing the car parking spaces as the site is well catered for in terms of its proximity to high quality public transport corridors.

- 10.5. The development plan however is clear and unambiguous in stating that *“potential mews laneways must have a carriageway of 4.8 metres in width and 5.5 metres where no verges or footpaths are provided”*. The current laneway is substandard in width incorporating a width of less than 3 metres along the side of Sydenham Road. I measured the entrance of the laneway at the entrance onto Sydenham Road and note that it is just less than 2.4 meters in width, less than 50% of the minimum width requirement for Mews Lane widths in the development plan.
- 10.6. In spite of its narrow and generally substandard width I do note that the laneway currently serves a number of car parking spaces to the rear of buildings fronting onto Merrion Road. I would share the Planning Authority’s concerns that such a narrow laneway in the absence of footpaths and with a pinch point along its alignment of 2.1 metres which is less than the width of a standard car parking space would constitute a significant road safety issue where cyclists, vehicular traffic and pedestrians would be using the laneway in order to gain access to cycle parking and mews developments to the rear. It should be also noted that the lane width incorporates projecting window sills which restrict the width.
- 10.7. The provision of a mews development to the rear of No. 1 Sydenham Road would in my view create an undesirable precedent for similar types mews developments which would generate additional pedestrian and cycling trips along this narrow laneway. It is noted that under Reg. Ref. 4090/19 the local authority has already refused planning permission for a two-storey two-bed mews dwelling for reasons relating to the substandard access.
- 10.8. The substandard access arrangements in my considered opinion militates against the provision of any development which would generate additional trips along the laneway be they pedestrian trips, vehicular trips or cycling trips as the substandard width of the laneway would give rise to significant traffic and pedestrian safety concerns.
- 10.9. On this basis I would recommend that the Board uphold the decision of Dublin City Council to refuse planning permission for the proposed development.

10.10. **New Issue**

10.11. If the Board consider it appropriate to overturn the decision of the Planning Authority and grant planning permission for the proposed development, before determining the application, I would recommend that the Board seek further information in relation to a Flood Risk Assessment. This issue was flagged by the Engineering Drainage Department in its assessment of the proposed development. Having consulted the OPW Flood Maps I note that the subject site is located in an area with a medium probability “*of experiencing flood events (approximately a 1:100 chance) of a flood event occurring or being exceeded in any given year i.e. an annual exceedance probability of 1%*”. As this constitutes a new issue and did not form the basis of the Planning Authority’s reason for refusal, it is recommended that this issue be raised with the applicant prior to determining the application. This issue should only be raised in the circumstances where the Board are minded granting planning permission for the proposal.

10.12. **Rights of Way Issues**

10.13. The observation on file raised the issue of the rights of access along the laneway should the development proceed. There is nothing to suggest that the granting of planning permission in this instance will in any way alter or vary statutory rights regarding rights of way and wayleaves along the laneway. However, it should be noted that this is a legal matter and the Development Management Guidelines for Planning Authorities note that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights of way overland.

11.0 **Conclusions and Recommendation**

Arising from my assessment above I recommend that the Board uphold the decision of the planning authority in this instance and refuse planning permission for the proposed mews development on the basis that the proposal would result in pedestrian and vehicular conflict and would therefore constitute a traffic hazard.

12.0 **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity 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.

13.0 **Decision**

Refuse planning permission for the proposed development based on the reasons and considerations set out below.

14.0 **Reasons and Considerations**

The proposed mews development is to be served by a laneway which is seriously substandard in terms of width. The proposed development would therefore be contrary to Section 16.10.16(l) which states that potential mews laneways must have a minimum carriageway of 4.8 metres in width. The proposed laneway would result in pedestrian and vehicular conflict and would therefore constitute a traffic hazard and would be contrary to the proper planning and sustainable development of the area.

Paul Caprani,
Senior Planning Inspector.

28th April, 2020.