



An
Bord
Pleanála

Inspector's Report ABP 307770 - 20.

Development	Change of use from commercial to residential use and alterations to include demolition of the single and two storey structure and roof structures. Construction of four apartments in a one and two with entrance off Garville Mews, and associated development.
Location	No 74A and 74B Rathgar Road, Dublin 6.
Planning Authority	Dublin City Council
P. A. Reg. Ref.	2679/20
Applicant	Mitchelsfort Developments Ltd.
Type of Application	Permission.
Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Anthony Donegan.
Observer	Rathgar Residents Association.
Date of Inspection	2 nd November, 2020
Inspector	Jane Dennehy

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1.0 Site Location and Description

- 1.1. The site has a stated area of 371 square metres is that of a vacant car workshop with frontage onto Garville Mews which is a service lane extending westwards off Rathgar Road and northwards to the rear of terraced houses facing onto Rathgar Road. A car sales outlet at the corner of Rathgar Road adjoins the east side of the vacant workshop is also included within the site. Residential development is located along Rathgar Road and to the north of the site to the west side of the site opposite the site, on Garville Mews and there is residential development. Along the northern section of Garville Mews there are twenty terraced two storey houses with front curtilage parking and a commercial building.
- 1.2. Pay and display parking is available along part of Garville Mews at the western end and uncontrolled parking the remainder of the lane. A footpath is located along the lane opposite the site.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for:
 - demolition of the existing buildings on the site.
 - construction of a part single storey and part two storey flat roofed apartment development with cycle and bin storage located at the centre of the site at ground floor level.

There is no on-site provision for car parking whereas eight on site cycle parking spaces are proposed

3.0 Planning Authority Decision

3.1. Decision

By order dated, 6th August, 2020 the planning authority decided to grant permission for the proposed development subject to conditions of a standard nature.

3.2. **Planning Authority Reports**

- 3.2.1. The report of the **Transportation Planning Division** indicates a recommendation for refusal of permission due to the absence of on-site parking, resultant increase to an existing high demand for parking along Garville Mews which would constitute overdevelopment and, undesirable precedent resulting in endangerment of public safety by reason of traffic hazard.
- 3.2.2. A development of few units incorporating some on-site parking provision would be acceptable to the appropriate according to the report. The cycle parking provision (eight spaces) is welcomed, and refuse storage arrangements are acceptable. A construction management plan should be submitted, by condition, according to the report owing to the constraints of the site and the location.
- 3.2.3. The **Planning Officer** in his report describes Garville Mews in characteristics as a side street as opposed to a mews lane and states that the provisions of Sections 16.1.1. and 16.10.10 the CDP for infill development are appropriate for application in relation to the proposed development. He concludes that that proposed development is satisfactory in quality and is compatible with surrounding development.

3.3. **Third Party Observations**

Issues of concern raised in two submissions lodged with the planning authority are that of conflict with section 16.10-.16 of the CDP lack of parking provision to serve the development, substandard residential development and incompatibility with surrounding residential development.

4.0 **Planning History**

- 4.1.1. There is no relevant planning history for the site.
- 4.1.2. It is noted that there is a prior grant of permission under P.A. Reg. Ref 3099/13 at No 74C Rathgar Road, (the adjoining property in the ownership of the appellant party) adjoining the west side boundary, for demolition of a single storey flat roof rear extension and construction of 2 storey rear extension, two car spaces in the front garden and a new vehicular entrance. It is also noted that permission as refused for a subsequent proposal, under P. A. Reg. Ref. 0180/20 for demolition of the dwelling

and construction of two three storey semi-detached houses for reasons of excessive height, insufficient private open space provision, overbearing impact, undesirable precedent and adverse impact on visual and residential amenities.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site location is subject to the zoning objective: *Z1: To protect, provide and improve residential amenities.*
- 5.1.2. Development Management Standards for residential development are set out Chapter 16 with Mews Lane development being provided for under section 16.10.16 and Infill development under section 16.2.2.2 and Infill housing under section 16.10.10. Residential quality standards are set out in section 16.20.3.
- 5.1.3. The location is within Area 3 for parking standards and according to Table 16.1 the maximum requirement per dwelling unit is 1.5 spaces
- 5.1.4. The historic properties along Rathgar Road and the surrounding road network are included on the record of protected structures.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was received from Anthony Donegan of No 74C Garville Mews, (Sycamore Cottage) the property to the west side of the appeal site, on his own behalf on 31st July, 2020. Mr Donegan states that his property is over one hundred years old, was a feature in the Rathgar area and that he renovated it after he purchase. According to the appeal:
- The validity of the application with regard to the adequacy of the site notice details and the location where it was erected is questioned. The applicant corresponded with the planning authority on the matter and considers that the application should have been invalidated.

- The development would encroach on the common boundary with Mr. Donegan's property and he does not consent to this. His property is a detached house with windows on all sides and the boundary wall would overshadow and there would be a negative outlook from the ground floor. The existing building causes moderate overshadowing whereas the proposed development will increase the boundary wall height, at three metres from the main section of his house, to 6.666 metres significantly increasing the shadow impact on the kitchen.
- The daylight analysis is misleading in that shadow effect should be shown for 9.00 am for 21st March and September showing the full amount of shadow over the east side of the house. The excessive height of the boundary wall would result in the amenity of Mr Donegan's property being reduced and it would be devalued. Furthermore Unit 4 in the development would receive little direct light.
- The proposal amounts to overdevelopment in an already very congested area. The building design is out of character with surrounding development and contrary to section 16.10.16 (Mews development) in the CDP in that there is no unified approach. Emphasis is placed on quality in infill development in statutory Guidelines for Planning Authorities on Residential Density and Sustainable Residential Development in Urban Areas. The location is not an area where the factors for site assembly and infill development are relevant.
- The proposal is not in keeping with the established character of development in the receiving environment. It also fails to deliver on the 'Z1' zoning objective for improvement of residential amenities and does not respect the character of the surrounding development. The site is too small for higher density to be feasible. CDP and Objectives QH8 on vacant and underutilised site, AHO1 on potential densities, SC13 regarding location on transport corridors and community facilities and infrastructure. The building line is breached. The proposed development is not consistent with Sections 16.2.1 and section 16.10.10 on design and design for infill development.
- The recommendation to refuse permission in the Transportation Department's report should not have been ignored as the reasons for refusal of permission

in it are appropriate and in keeping with Development management standards in the CDP. Six car-spaces should be provided, according to the CDP standards. (Table 16.1) A minimum of four to six adults at the four dwellings will bring four to six extra cars in need of parking along Garville Mews leading to increased traffic congestion. The lack of provision for parking in the development is not justified by availability of public transport and cycling routes. There are health and safety issues with regard to traffic in that entrance doors open directly on to the lane is there is no footpath. The laneway is too narrow.

6.2. Applicant Response

6.2.1. A submission was received from the applicant's agent on 26th August, 2020 according to which:

- The site notices were compliant with the statutory provisions and the application was validated by the planning authority.
- The wall adjacent to the appellant's property is not a party wall and there are construction methodologies which do not necessitate access to third party property and will not affect the boundary which can be employed. The applicant is willing to accept a condition with a requirement for a compliance submission on construction methodology
- Any adjustment to the height relative to the existing building relative is introduced to facilitate the required floor to ceiling heights. The modern contemporary design is in keeping with the scale of the existing building and the laneway. (Illustrations are included.) and is sensitive to the urban setting and this is confirmed in the planning officer report. The replacement of the existing garage workshop which is falling into disrepair will significantly animate, benefit and improve the laneway.
- Non-designated parking spaces are proposed within the application and there is on-street public parking on the lane which is close to public transport and cycle parking is provided. The standards in Table 16.1 of the CDP are the maximum leaving the planning authority on discretion regarding the minimum.

- With regard to planning context, it is not agreed that the existing building line is breached in that the building line and footprint of the original building is followed and the massing of the existing and proposed is the same. All doors open inwards, and the entrances are recessed providing space.
- The east elevation windows at the appellant property do not match those shown for the grant of permission which was in keeping with the original cottage. This discrepancy is noted by the planning officer in his report on the appellant party's application under P.A. Reg. Ref. 2679/20.
- The proposed development is fully compliant with the policy objective (namely 33 and 35) within *Residential and Sustainable Development in Urban Areas: Guidelines for Planning Authorities*.

6.3. Planning Authority Response

There is no submission from the planning authority on file.

6.4. Observations

A submission was received from the Rathgar Residents' Association on 25th August 2020 in which it is stated that mews lanes such as Garville Mews developed circa 1800 are historical significant and of special interest and reference is made to section 16.10.16 of the CDP in which a unified approach to mews lane development is encouraged and development management criteria is provided. It is stated that eighteen mews dwellings which is a considerable amount of development has taken place along Garville Mews and that a common approach to their design and selection of materials is evident. However, the proposed design, form, profile and building line are at variance with the existing development and the criteria set out under Section 16.10.16 of the CDP. There is insufficient private open space, overlooking would occur, and the quality of the accommodation would be substandard. Undesirable precedent would also be set, and it is requested that permission be refused.

7.0 Assessment

7.1. The issues central to the determination of the decision and considered below are:

- Impact on amenities and value of adjoining property.
- Design and Form – Impact on Established Character of Surrounding Development.
- Parking provision.
- Private and Communal Open Space.
- Procedural matters
- Environmental Impact Assessment Screening
- Appropriate Assessment Screening.

7.2. Impact on amenities and value of adjoining property.

7.2.1. The footprint for the proposed development, as with the existing development adjoins the eastern site boundary with the appellant party's property. An increase in shadow effect on this property which is to the west side of the application site, relative to the existing situation, owing to the proposed gable end profile and height would be minor and additional obstruction of light, if any, from the south and north would be negligible. It has not been shown that light to the east facing internal habitable rooms would fall below any recognised minimum standards such as those set out in BRE guidance.

7.2.2. For the urban location, the profile and height for the west facing gable end although blank as in the case of the existing elevation, is reasonable having regard to potential overbearing impact, relative to the existing relationship, on the amenities of the adjoining property. There is no scope for overlooking of this property owing to the blank elevation and the private open space, (terraces) being confined to the ground floor level.

7.3. Design and Form – Impact on Established Character of Surrounding Development.

It is agreed with the planning officer that it is more appropriate to apply the standards within the CDP for infill development than mews lane development in that the site is

not that of an existing rear garden of an historic property, and appears to be part of a previously severed side garden although this has not been confirmed through review of historic maps. The area is characterised by a mix of houses and apartments in design in which there is no uniformity in typology and no strict design parameters for new development. The proposed development in a contemporary design and compatible replaces an industrial workshop unit and enhances the visual amenities of the area. As an infill the proposed development infills the site to its maximum capacity in appropriate design and form that satisfactorily integrates with the existing surrounding development.

7.4. Parking provision.

- 7.4.1. .A maximum of six carparking spaces is required having regard to Table 16.1 of the CDP for Area 3 in which the site is located and the Transportation Division as recommended refusal of permission owing to the existing heavy demand for existing on street public parking facilities, and potential endangerment of public safety as a result. It is noted that it is the Division's view that a development with a reduced number of dwelling units incorporating some on-site parking would be more appropriate and this view is considered reasonable.
- 7.4.2. The additional demand on public parking facilities is source of concern for the appellant and observer parties and it is agreed that significant traffic movements and parking demand would be created by the proposed development. However, it should be borne in mind that the former car workshop business operated at the site would also have generated traffic movements and on street parking demand. Unmanaged parking occurs along the western end of the lane opposite the site and onwards to the north but the existing dwellings all have the benefit of on-site curtilage parking which should limit parking demand. It is unclear as to whether residents permit parking along the remaining section at the eastern of Garville Mews would be available for future occupants.
- 7.4.3. However, given that existing residential development has the benefit of curtilage parking and the availability of public transport and cycle route as alternative means of transport, the decision of the planning authority to permit the development in spite of the objections of the Transportation Department is acceptable in this instance.

7.5. Private and Communal Open Space.

7.6. There is no communal open space with good quality amenity potential, the communal areas at ground level being taken up by storage and cycle parking, a minimum area of twenty-four square metres being required whereas the private open space provision in the form of south facing terraces are satisfactory. Given the small size of the development, there is no objection to the lack of meaningful communal open space within the scheme.

7.7. Procedural matters.

7.8. It is not evident that there is a basis on which the application could have been invalidated having regard to the site/public notices but the matter could be pursued through the legal system if required. As regards possible encroachment on third party property, a grant planning permission does not entitle a person to implement a development as provide for under section 37 (13) of the Planning and Development Act, 200 (as amended). The applicant has indicated in the appeal that demolition and construction methodology to be employed would not necessitate access to adjoining third party property. In this case however, preparation and submission (by compliance with a condition) of a demolition and construction management plan to include a methodologies, as proposed by the applicant in the appeal and, to take account of the site constraints and that of surrounding area in the public realm would be advisable.

7.9. Environmental Impact Assessment Screening.

7.9.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.10. Appropriate Assessment.

7.10.1. Having regard to the nature and scale of the proposed development within a serviced urban area and separation 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 the conservation objectives of any European site.

8.0 Recommendation

- 8.1. In view of the foregoing, it is recommended that the planning authority decision to grant permission be upheld. Draft Reasons and Considerations and Conditions follow:

9.0 Reasons and Considerations

It is considered that subject to compliance with the conditions set out below, the proposed development would not be seriously injure the residential of the adjoining property to the west side, the visual amenities and established character and pattern of development in the area and would be acceptable in terms of traffic safety and convenience. 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 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 materials, colours and textures of all external finishes which shall include the provision of samples for the proposed new roof shall be submitted to

and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

3. Hours of construction shall be confined to the hours of 0800 and 1900 Mondays to Fridays excluding bank holidays and 0800 hrs and 1400 hrs on Saturdays only. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of the residential amenities of the area.

4. The applicant shall prepare a Demolition and Construction and Construction Traffic Management Plan, which shall be agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended demolition and construction methodology for the development.

Reason. In the interest of clarity, orderly development and the amenities of the area.

5. 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, "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 interests of sustainable waste management.

6. Water supply and drainage arrangements, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

7. The applicant shall obtain water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

8. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

9. 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 considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development

Jane Dennehy
Senior Planning Inspector
5th November, 2020.