



An
Bord
Pleanála

Inspector's Report ABP-307789-20

Development	Construct a three-storey mews house with front and rear roof terraces and a vehicular access off the rear lane
Location	Rear of 25 Hollybrook Road, Clontarf, Dublin 3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4770/19
Applicant(s)	Felicitas & James Gilsean
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-party
Appellant(s)	1. Kevin & Caoimhe O'Malley; 2. Brian Walsh & Niamh Power
Observer(s)	None
Date of Site Inspection	21 st September 2020
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1.** The appeal site is located to the rear of Hollybrook Road in Clontarf backing onto a rear service lane, 150m southeast of Howth Road (R105 regional road) and approximately 4km northeast of Dublin city centre. It is stated to measure 133sq.m and currently comprises part of the rear garden serving the house at 25 Hollybrook Road. No.25 is a Victorian-style two-storey five-bedroom house featuring a three-storey rear return projection, a single-storey rear extension and rooms in the roof space. Access to the rear of the houses along the west side of Hollybrook Road is available from Hollybrook Mews to the north and a rear service lane to the south. The front street along Hollybrook Road is characterised by rows of red-brick semi-detached Victorian-style houses fronting onto gardens and a tree-lined street, while more recent three-storey apartment buildings, namely Brooklawn and Hollybrook Mews, are located to the west of the rear service lane. Ground levels in the vicinity drop steadily to the south towards Dublin Bay.
- 1.2.** Following the adoption of variation two to the Dublin City Development Plan 2016-2022, the houses along Hollybrook Road were removed from the Record of Protected Structures and included in Hollybrook Road Architectural Conservation Area (ACA).

2.0 Proposed Development

- 2.1.** The proposed development initially comprised the following:
- clearing of the site and the removal of the rear boundary;
 - construction of a three-storey contemporary-style three-bedroom mews house with a gross floor area of 142sq.m and featuring a vehicular access to an integrated car port, as well as front and rear-facing upper-floor roof terraces and connections to local services.
- 2.2.** In addition to the standard planning application documentation and drawings, the application was accompanied by a planning application report. Following a request for further information a set of shadow study analysis drawings, sunlight availability drawings, correspondence regarding the ownership of the rear laneway and a report titled 'Hollybrook Mews Masterplan' was submitted. The proposed development was

also revised to provide for a two-storey two-bedroom mews house with front and rear-facing first-floor terraces and a pitched roof served by front and rear roof lights.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority decided to grant permission for the proposed development, subject to 14 conditions of a standard nature, including the following:

- Condition 3 – the developer is to enter into a section 47 agreement to allow the provision of a shared access across the recessed laneway frontage;
- Condition 4 – further details to avoid overlooking of the host house and neighbouring properties is to be submitted;
- Condition 5 – the site shall not encroach on the host site area;
- Condition 7 – the rear laneway shall be resurfaced.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report of the Planning Officer (February 2020) noted the following:

- the laneway to the rear provides scope for potential mews sites and it would be preferable if a masterplan could be drawn up to co-ordinate this;
- a two-storey mews house had previously been granted for this site under planning authority register reference (reg. ref.) 3802/07;
- the proposed structure would not materially impact on the visual amenities of the ACA and the structure should be stepped to two-storeys to the rear;
- the rear laneway is used by a substantial number of residents along Hollybrook Road in order to access car parking spaces, as front off-street parking is often not available;
- brick finishes matching the brick in the rear projection of the host house, as well as dark render would be preferable;

- short-term impacts on the amenities of neighbouring residents would arise, including overlooking, but these would be necessary to offset the long-term objectives of urban consolidation and densification;
- the house would meet the internal space standards required and would not lead to loss of light or outlook for neighbouring residents;
- overlooking of the proposed private amenity space would occur and this would continue to occur if adjoining sites were development. There is potential for the private amenity space and internal rooms to be poorly served by natural lighting;
- the 14m separation distance across the rear laneway between Brooklawn apartments and the proposed mews would be acceptable;
- the applicants should address the details required by the Transportation Planning Division and whether or not they would be willing to enter into a section 47 agreement regarding shared access over the rear laneway.

The final report of the Planning Officer (July 2020) noted the further information response submitted by the applicants, including matters that would be addressed via conditions, and the report recommendation reflects the decision of the planning authority to grant permission.

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) – no objection, subject to conditions;
- Transportation Planning Division – further information initially requested and subsequently, no objection, subject to conditions;

3.3. Prescribed Bodies

- Irish Water – no response;
- Irish Rail – no response.

3.4. Third-Party Observations

- 3.4.1. During consideration of the application by the planning authority, four third-party submissions were received, all of which were from neighbouring residents of Hollybrook Road. The issues raised in these submissions are similar to those raised in the grounds of appeal and are collectively summarised under the heading 'Grounds of Appeal' below.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. The applicants states that pre-planning discussions between representatives of the planning authority and the applicants were undertaken in October 2019. The following application relates to the appeal site:

- reg. ref. 3802/07 – permission was granted by the planning authority in March 2008 to allow the construction of a two-storey two-bedroom mews house with a rear garden space, located to the rear of no.25, a protected structure, and this was subsequently extended under reg. ref. 3802/07x1 in March 2013 before lapsing in February 2018.

4.2. Surrounding Sites

- 4.2.1. Planning applications in the immediate area primarily relate to proposals for domestic extensions and alterations, while parties to the appeal have referred to various applications for similar mews-style development proposals on neighbouring sites and in the wider city area.

5.0 Policy & Context

5.1. Development Plan

- 5.1.1. The appeal site is situated in an area identified within the Dublin City Development Plan 2016-2022 as having a land-use zoning objective 'Z2 – Residential Neighbourhood (Conservation Areas)' with a stated objective 'to protect and/or improve the amenities of residential conservation areas'. The general objective for these lands is to protect them from unsuitable new developments or works that

would have a negative impact on the amenity or architectural quality of the area. As referenced above, the site is now located within the Hollybrook Road ACA.

5.1.2. Planning policies for residential development are set out under sections 5 (Quality Housing) and 16 (Development Standards) within Volume 1 of the Development Plan. Design principles for residential development are set out in section 16.2.2.2 of the Development Plan. Design standards for mews developments are set out in section 16.10.16 of the Development Plan. In this part of the city (area 3), a maximum of 1.5 car parking spaces per house is allowed based on map J and standards within section 16.38 of the Development Plan.

5.1.3. The following Development Plan architectural heritage policies are relevant to this appeal:

- CHC1 - preserve the built heritage of the city;
- CHC4 - protect the special interest and character of conservation areas;
- CHC7 – trees in ACAs;
- CHC8 – off-street parking for protected structures and in ACAs.

5.1.4. Appendix 24 of the Development Plan addresses ‘Protected Structures and Buildings in Conservation Areas’.

5.2. Planning Guidelines

5.2.1. The following planning guidance documents are relevant:

- Urban Development and Building Heights Guidelines for Planning Authorities, (2018);
- Design Manual for Urban Roads and Streets (DTTaS and DoECLG, 2013);
- Architectural Heritage Protection Guidelines for Planning Authorities (2011);
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009);
- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007).

5.3. Environmental Impact Assessment - Preliminary Examination

- 5.3.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. Two third-party appeals were submitted from the neighbouring residents of nos.26 and 27 Hollybrook Road. Together with the observations to the application, the grounds of appeal can be collectively summarised as follows:
- proposals would have negative impacts on the visual and residential amenities of the area and would result in overdevelopment of the site;
 - the appellants' response to the further information request did not fully address the matters raised by the planning authority, including the need to step the building, the impact on lighting and the upgrade and consent to use the rear laneway;
 - the mews building would feature an insensitive design and would be overly dominant and of excessive height, depth and scale, particularly in the context of the ACA designation and other permitted structures;
 - proposals would be contrary to the planning provisions, development standards and the zoning objectives for this area, as outlined in the Development Plan;
 - proposals would be contrary to policy CHC4 of the Development Plan, as the development would fail to make a positive contribution to the appearance and special character of the ACA;
 - the proposed development would lead to overlooking and overshadowing of neighbouring properties, as well as noise disturbance and loss of privacy;

- the walls on the boundary would be overbearing from the adjoining property gardens, particularly due to the difference in ground levels;
- the development would lead to precedent for further mews-style developments along the laneway and a lower structure would be more appropriate;
- the precedent cases cited by the applicants are not relevant as they relate to two-storey structures on larger sites in the city that are more capable of absorbing a mews development;
- refusal of planning permission for mews house developments in the city provide precedent for the refusal of permission for this development;
- the laneway to the rear measures only 4.2m in width and is therefore short of the 5.5m Development Plan standard lane width required in this instance;
- depreciation in the value of property in the vicinity would arise;
- the consensus of adjoining property owners has not been achieved.

6.2. Applicants' Response

6.2.1. The applicants' response to the grounds of appeal can be summarised as follows:

- proposals support the intensification of development in a city location;
- the appellants have provided inaccurate measurements regarding the height of the proposed mews building when comparing it with the host house, the originally submitted mews building and the previously permitted mews building;
- the laneway would measure 5.5m in width fronting the proposed mews building and a comparison of the mews building depth with the depths of neighbouring structures is irrelevant;
- the existing garage structure to the rear of no.26 would avoid the impacts of the development from this adjoining property;
- development standards for the previously permitted mews house differed, whereas the subject proposals have sought to improve the layout and the design of the mews building, as well as its impact on neighbouring amenities;

- sufficient private amenity space in excess of the minimum standards is proposed and the proposals have been prepared cognisant of differences in ground levels;
- based on the shadow and sunlight studies undertaken, only minimal impacts on neighbouring gardens as a result of overshadowing would arise;
- materials would correspond with and complement those of the host house and various privacy measures have been incorporated into the detailed design of the proposals to address overlooking;
- a withdrawal of consent from the owner of the rear laneway for the upgrade works to the laneway has not been issued;
- all residents along the west side of Hollybrook Road backing onto the laneway were contacted prior to making the application and a public meeting was held, at which no objections were raised.

6.3. Observations

6.3.1. Observations in response to the grounds of appeal were not received.

6.4. Planning Authority Response

6.4.1. The Planning Authority did not respond to the grounds of appeal.

7.0 Assessment

7.1. Introduction

7.1.1. I consider the substantive planning issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Housing Standards;
- Architectural Heritage;
- Residential Amenities;
- Access & Parking.

7.2. Housing Standards

- 7.2.1. In response to a request for further information, the proposed development was revised from a three-storey four-bedroom mews house to a two-storey two-bedroom mews house. Within the 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007), a target gross floor area of 80sq.m is set for a two-bedroom four-person two-storey house and the subject proposed mews house measuring a total floor area of 110sq.m would achieve this standard. Minimum internal space standards outlined in the Quality Housing Guidelines would also be achieved. No rear windows are proposed to serve the ground-floor rear bedroom, as it would adjoin the garden to the host house. This bedroom would be served solely by south-facing floor-to-ceiling openings onto an internal rear courtyard space that is enclosed by 4.7m-high walls and a timber-fin screen (see drawing no. K1391-S2-211 revision A). Consequently, I have reservations regarding the scope to provide sufficient natural lighting into this bedroom. To attempt to overcome this via attachment of a condition to introduce high-level non-opening windows onto the east elevation would be impractical and unreasonable given the fact that such windows could become obstructed by third parties in future as they would sit directly onto the garden of the host house.
- 7.2.2. Private open space for the mews house residents would be provided in the form of a 12sq.m internal rear courtyard, as well as two first-floor level roof terraces amounting to 37sq.m. Under section 16.10.16 of the Dublin City Development Plan 2016-2022, various standards for mews house developments are outlined, including the need for private open space to be provided to the rear of the mews building and the depth of this open space should not generally be less than 7.5m for the full width of the site, unless it is demonstrably impractical to achieve. The proposed internal rear courtyard would not extend across the width of the site and would only measure 3.9m in depth. Scope to provide a rear garden serving the mews house and to a depth of 7.5m across the site would not appear to be restricted given that sufficient space could remain available as private amenity space for the host house. While I recognise that 49sq.m of private amenity space is proposed overall, including the two first-floor terraces, the amenity space is fragmented, is of limited function and practical reasons to overcome the Development Plan requirements have not been sufficiently demonstrated in the application. Furthermore, a 7.5m-deep rear garden

has not been provided, and I note that this was provided as part of the mews developments to other properties backing onto Hollybrook Mews (for example reg. ref. 3347/10 – Rear of 36 Hollybrook Road).

- 7.2.3. Consequently, permission for the proposed development should be refused due to the substandard provision of private amenity space, which would not comply with the requisite Development Plan standards and also due to concerns regarding the inadequate level of natural lighting for the proposed ground-floor rear bedroom.

7.3. Architectural Heritage

- 7.3.1. Policy CHC4 of the Development Plan aims to protect the special interest and character of conservation areas, as well as requiring development within a conservation area to contribute positively to its character and distinctiveness, and to take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. The Conservation Officer within the planning authority was not consulted with respect to the proposals.
- 7.3.2. As illustrated in the three-dimensional visual drawing (no. K1391-S2-901 revision A) submitted to the planning authority as further information, I am satisfied that the contemporary architectural design, as well as subordinate scale and two-storey height relative to the host house, would allow the mews building to complement the character of the host house, as required in policy CHC4 of the Development Plan and the Architectural Heritage Protection Guidelines for Planning Authorities (2011).
- 7.3.3. Proposals would restrict access to the rear of the house for car parking and servicing and section 16.10.16 of the Development Plan outlines that mews development should not inhibit vehicular access to car parking spaces at the rear for the benefit of the host house, where space exists at present. The planning report submitted with the application includes photographs of the site, which show that the subject rear area to the site features cut lawn, albeit with capacity to be used for car parking (see page 22 of the planning report submitted). The construction of a mews development to the rear would clearly restrict access to an existing parking area serving the host house.
- 7.3.4. The Hollybrook Road ACA document identifies those features of the ACA that are integral to the character of the area and of special interest, in particular the houses,

the mature front gardens and the tree-lined street. The pressure to use the front gardens of houses along Hollybrook Road to provide for car parking is identified as being problematic in the Hollybrook Road ACA document, as it would result in the loss of one of the area's most positive characteristics; its leafy, spacious quality.

- 7.3.5. As a preferred alternative to individual development proposals, section 16.10.16 of the Development Plan outlines that the planning authority will actively encourage schemes that provide a unified approach to the development of residential mews lanes and where consensus between all property owners has been agreed. In attempting to provide for a co-ordinated context for the subject development, the applicants have submitted a masterplan for the rear service lane, showing an indicative linear strip of over 30 two-storey mews houses fronting directly onto the laneway. I recognise the extent of existing structures backing onto the laneway, all of which are lower in height than the proposed mews house, and the fact that many of these structures provide car parking and rear service access to the houses along Hollybrook Road. While I acknowledge planning policy promoting increased residential densities in proximity to public transport nodes and city centres, this needs to occur in a co-ordinated and cohesive manner. To accept that a co-ordinated approach to mews development has been provided for by the masterplan document would unerringly fail to recognise the implications of such development on Hollybrook Road ACA, including the likely loss of rear car parking spaces for residents and the resultant increased pressure to allow for off-street front car parking, which would pose a significant threat to the special character of the ACA. Therefore, I am satisfied that the proposed development by itself would not protect the special interest and character of the conservation area and as a consequence would be contrary to policy CHC4 of the Development Plan. Consequently, permission for the proposed development should be refused for this reason.

7.4. Residential Amenities

- 7.4.1. The grounds of appeal assert that the proposed development would result in excessive overshadowing and overbearing impacts for neighbouring properties. I recognise the scale of the proposed mews building directly onto the side boundaries with the adjoining properties. However, based on the shadow and sunlight study drawings submitted in response to the further information request and given the

c.34m depth of the rear gardens to neighbouring properties, including the position of no.24 Hollybrook Road to the south and the large pitched-roof outbuilding on the rear boundary of no.26, excessive overshadowing and overbearing impacts for neighbouring properties would not arise.

7.4.2. The planning authority recommended a condition (4) requiring further details to be submitted in order to obviate overlooking of neighbouring properties and the grounds of appeal assert that overlooking of neighbouring properties would arise and would impact on the amenities of residents. With regard to mews house developments, the Development Plan states that the distance between the opposing windows of mews houses and the host house should generally be a minimum of 22 m. This separation distance may be relaxed due to site constraints, subject to innovative and high-quality design to ensure privacy and to provide an adequate setting, including amenity space, for both the main building and the mews dwelling.

7.4.3. The separation distance between the recessed rear windows at first-floor level serving the living area to the mews house and the opposing original rear return projection in the host house would be approximately 20.3m. The first-floor rear terrace would be approximately 15.3m from the rear projection to the host house. The applicants have not demonstrated that the minimum separation distance would be achieved and despite the enclosing of the first-floor rear terrace with a 1.8m-high wall along the rear and north side boundary, as well as the positioning of a timber-fin screen along the rear boundary to restrict views to the south, potential to overlook the first-floor rear terrace would be possible from the second-floor of the host house (see section B-B / drawing no. K1391-S2-310 revision A). As referred to above, two-storey mews developments have already been constructed along the rear of Hollybrook Road to the north of the appeal site and within the ACA, although these mews developments backing onto Hollybrook Mews are on plots approximately 4m to 5m deeper than the host property and as noted these neighbouring mews developments feature rear gardens. In conclusion, the inadequate separation distance between the proposed mews house and the host house, would be contrary to Development Plan provisions with regard to preserving residential amenities and would undermine the use of the living area and amenity space proposed to serve the mews house, as potential for excessive overlooking of these spaces would arise.

7.4.4. In conclusion, while the proposed development has attempted to address the shortfall in the minimum separation distance required in the Development Plan by restricting the potential for excessive overlooking of neighbouring properties through innovative design solutions, the potential for excessive overlooking and loss of privacy of the amenity and living area serving the proposed mews house would arise, which would be to the detriment of future occupants and would be contrary to the provisions outlined in section 16.10.16 of the Development Plan. Consequently, permission for the proposed development should be refused for this reason.

7.5. Access & Parking

- 7.5.1. The Development Plan requires a mews development to be served by one car parking space and a laneway with a minimum carriageway width of 4.8m or a width of 5.5m where no verges or footpaths are provided. The proposed mews house would be served by an integrated car port capable of accommodating one car with access from the rear service laneway, which does not feature a verge or a footpath. While the laneway width varies intermittently from approximately 3.8m to 7m along its entire length, it is approximately 5.5m in width fronting both the proposed mews house and the immediate section connecting the site to the north with Hollybrook Mews. Hollybrook Mews features a 7m-wide carriageway, including a footpath on the west side.
- 7.5.2. I am not aware of any mews houses currently located to the south of the appeal site along the rear service lane. The applicants refer to a 'granny flat' development 70m to the south west of the appeal site and permitted under reg. ref. 3268/06, as providing precedent for the subject proposals. However, I note that this permission did not provide for any access onto the laneway. The applicants and the Traffic Planning Division of the planning authority state that the rear laneway is in the ownership of another party and as part of a further information request a letter allowing for resurfacing of the laneway was submitted. The appellants contest the validity of this letter, as it dates from 2007 and refers to a previous permission for a mews development on the appeal site (reg. ref. 3802/07). The Traffic Planning Division of the planning authority considered the proposals to be acceptable, subject to conditions, including the need for the rear laneway to be upgraded via resurfacing to the rear of nos.25 and 26 Hollybrook Road.

7.5.3. On the basis of Section 34(13) of the Planning and Development Act 2000, as amended, should the Board decide to grant planning permission, the onus is on the developer to ensure that they have adequate legal interest to carry out the proposed development. Notwithstanding this, the existing surface of the road for the 20m to 25m stretch between the site and Hollybrook Mews would not appear to obstruct access to the site. In conclusion, the proposed development would be provided with a safe means of access to and egress from the appeal site and would not result in traffic hazard. Accordingly, subject to conditions, the development should not be refused permission for reasons relating to the provision of access and parking to serve the mews house. However, section 7.3 of this report highlights my concerns regarding the inhibiting of access to rear car parking for the host house.

8.0 Appropriate Assessment

8.1. Having regard to the minor nature 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.

9.0 Recommendation

9.1. I recommend that planning permission be refused for the proposed development, for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. Having regard to the nature and scale of the proposed development, to the pattern of development in the vicinity and to the provisions of the Dublin City Development Plan 2016-2022, it is considered that the proposed development, by reason of the absence of a rear garden area and the fragmented form of private amenity space to serve the mews house, by reason of the siting of the ground-floor bedroom openings solely onto an internalised courtyard and by reason of the inadequate separation distance

to the host house with potential for the rear first-floor terrace and rear living area to be overlooked from the host house, would constitute a substandard form of residential development with an unsatisfactory standard of residential amenity for future occupants of the development, which would be contrary to the development standards of Dublin City Development Plan 2016-2022, including the provisions outlined in section 16.10.16 relating to mews developments. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the nature and scale of the development, to the location of the site within the Hollybrook Road Architectural Conservation Area and the features of special interest for this area, to the pattern of development in the vicinity and to the provisions of the Dublin City Development Plan 2016-2022, it is considered that the development, by reason of the loss of access to an existing rear car parking area for the host house, would be contrary to the provisions set out in section 16.10.16 of the Dublin City Development Plan 2016-2022, which require new mews development not to inhibit vehicular access to existing car parking space at the rear, and would pose a threat to the special character of the Hollybrook Road Architectural Conservation Area by increasing pressure for parking to the front of Hollybrook Road, contrary to policy CHC4 of the Dublin City Development Plan 2016-2022, which seeks to conserve and enhance the special interest and character of Architectural Conservation Areas. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

30th October 2020