



An  
Bord  
Pleanála

## Inspector's Report

### ABP307815-20

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<b>Development</b>	Construction of a detached single storey single bedroom house, and associated works.
<b>Location</b>	To the rear of 45 Belgrove Road, Clontarf, Dublin 3.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	WEB1182/20.
<b>Applicants</b>	Colm & May Gallagher.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party -v- Refusal.
<b>Appellants</b>	Colm and May Gallagher.
<b>Observers</b>	Gerard and Clare Roebuck Linda and Michael Norton Patrick and Philomena Lawlor Derek Beatty.
<b>Date of Site Inspection</b>	23 <sup>rd</sup> November, 2020.

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## 1.0 Introduction

ABP307815-20 relates to a first party appeal against the decision of Dublin City Council to refuse planning permission for the construction of single storey one bed dwelling to the rear of No. 45 Belgrove Road, Clontarf, Dublin 3. Permission was refused for a single reason relating to substandard access arrangements and lack of legal entitlement to use the proposed access.

## 2.0 Site Location and Description

Belgrove Road is located in the eastern environs of Clontarf Village and runs in a north-south direction linking Kincora Road to the north with Clontarf Road and Dublin Bay to the south. The houses fronting onto Belgrove Road comprise of a row of terraced red brick Edwardian-style houses. No. 45 is located at the end of the terrace of dwellings on the east side of the road and backs onto the northern end of a laneway running to the rear which connects both to Belgrove Road to the south of the site and also to Vernon Avenue further east just north of Clontarf Village. All dwellings fronting onto Belgrove Road incorporate narrow but long back gardens. The gardens are in excess of 40 metres in length and approximately 7 metres in width. The rear garden associated with No.45 extends even further to the rear of dwellings fronting onto Kincora Road to the north. A number of sheds and garages are located in the rear gardens of the dwellings backing onto the mews lane. A number of recent planning applications have been made for mews development backing onto the laneway. Also lands to the rear of Belgrove Road, adjacent to the mews lane have recently been developed as a small residential infill development comprising of approximately 17 houses with access onto Vernon Avenue. This development is known as Vernon Mews or Vernon Square Development. This infill development which is nearing completion with some of the houses are already occupied. Vernon Mews comprises of 5 Blocks of two-storey terraced structures (see photographs attached).

The rear garden of No. 45 currently comprises of private rear garden with double doors facing onto the northern end of the laneway.

### 3.0 Proposed Development

Planning permission is sought for the construction of a single storey dwelling within the rear garden with access onto the laneway. The dwelling is set back from the end of the rear garden and is set back a distance of c 18m from the rear of the existing house fronting onto Belgrove Road. The proposed structure is approximately 14.8 m in length and between 4.8 and 5.7 m in width. Its footprint extends to within 0.8 m of the side garden walls. It is proposed to provide a front entrance on the southern elevation of the structure a kitchen, dining and living room area to the rear (west) of the dwelling and a bedroom to the front (east) of the dwelling. A bathroom and storage area separates the living and sleeping accommodation. A paved area for parking is provided of street parking adjacent to the entrance to the laneway. The structure incorporates a mono-pitched roof with a void and attic area above. The structure rises to a maximum height of 4.88m. Solar panels are proposed on the roof. The drawings indicate that the dwelling will incorporate an extensively smooth render finish. The dwelling has a gross GFA of 60.62 m.

### 4.0 Planning Authority's Decision

#### 4.1. Decision

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

- 1. The laneway network from which the proposed mews development would gain access is currently substandard and the applicant has not demonstrated legal entitlement to access the application site through adjacent private development. It is considered that the development, pending right of access onto the public road network, would be premature and therefore by itself and by a precedent it would set, would be contrary to the proper planning and*

*sustainable development of the area, and would endanger public safety by reason of a traffic hazard.*

#### 4.2. **Documentation submitted with the Planning Application**

A covering letter was submitted by David Moran (RIAI). It states that following the decision by An Bord Pleanála on foot of a third party appeal to refuse planning permission for a previous application for house on the subject site the development is being revised to provide a single story single bedroom house. This will considerably reduce any impact on adjoining properties with no overlooking. Reference is made to the Design Manual for Urban Roads and Streets in designing the vehicular access. However, as the house is intended for elderly users, it is likely that access to the local shops will be provided through the lane network associated with Vernon Mews to the east. DMURS permits a carriageway with a 4.8 meters for local streets with a shared surface carriageway. There is also sufficient space to allow for an emergency vehicle access through the laneway system serving the site. SuDS drainage information is also provided in support of the application. The proposed dwelling complies with, and exceeds the requirements set out in the apartment guidelines in terms of internal layout etc. Passive house standards have also been applied in designing the house these are detailed in the covering letter. It is suggested that the proposed development in conjunction with other news developments along the laneway will create an appropriate sense of space.

#### 4.3. **Planning Authority Assessment**

A report from the **Engineering Department Drainage Division** stated that there is no objection subject to standard conditions.

A report from the **Transportation Planning Division** notes that the access from Vernon Ave through Vernon mews to the development is of an acceptable standard to facilitate the proposed development. However this access road is in 3rd party hands. The applicant has not demonstrated that a right of way over these lands nor has a legal agreement of same been provided. Dublin City Council have extinguished the public right of way over both laneways and gates have erected restricting access to residents only. The applicant does not explicitly outline how the

subject site will be accessed. There remains a serious concern that the laneway from Belgrove Road and Vernon Avenue remain below the standard and would need to be widened to development plan standard to accommodate the mews development. It is considered that the proposed development, pending improvement in the access, would therefore endanger public safety by reason of a traffic hazard. It is on this basis that it is recommended that planning permission be refused.

The **Planner's Report** set out details of the site description, the proposal and also sets out in detail the planning history associated with sites in the vicinity. It notes that the dwelling has been reduced in size and scale. The report further notes that the layout of the dwelling more than adequately meets the DECLG's Guidelines for Quality Housing for Sustainable Communities. In terms of overshadowing no major impact is anticipated. In term of overlooking any potential is likely to be negligible. In terms of private open space, it is noted that no external storage space is shown for the parent site or the proposed rear garden, In terms of open space provided, the residual open space associated with the parent dwelling is calculated at 100 sq.m while the open space associated with the subject site is estimated at 99 sq.m. In terms of access and traffic arrangements reference is made to the Transportation Planning Divisions Report and the comments of the Transportation Planning Division are noted, and it is on the basis of these comments that planning permission was refused.

## 5.0 Planning History

Two history files are attached. Under **29N 248552** Dublin City Council refused planning permission for a house with separate garage to the rear of No. 45 Belgrove Road on the grounds of that the laneway serving the development was substandard. The decisions was the subject of a 1<sup>st</sup> Party appeal. The Board upheld the decision and refused permission on the basis of the substandard laneway serving the development and added an additional reason on the basis that the proposal would be overbearing and would adversely impact on adjoining residential amenity.

Under **ABP 305178** permission was sought for a detached dwelling to the rear of no 45 Belgrove Road. Dublin City Council granted permission for the development and

this decision was the subject of two no. third party appeals. Despite the recommendation of the planning inspector, the Board overturned the decision of the planning inspector and refused planning permission for the development for two reasons relating to access and impact on adjoining amenities through overlooking. Other developments along the mews lane which are relevant to the current application and appeal are set out below:

**ABP 307612-20** - under this application which relates to the site to the south at no.25 Belgrove Road, planning permission was sought for mews development. It was refused planning permission by Dublin City Council for a similar reason to that cited in the current decision by Dublin City Council. The Board in its decision of October 2020 overturned the decision of Dublin City Council and granted planning permission subject to 12 conditions. One of the conditions required that the proposed mews dwelling shall not be occupied until the works permitted to the laneway under PL29 N 242 866 are completed.

**ABP301905-18** – under this application planning permission was sought for a similar type mews development three doors south of the subject site at No. 17 Belgrove Road. Dublin City Council issued notification to refuse planning permission for the proposed development for a similar reason to that in the current appeal. The Board however overturned the decision of the Planning Authority and granted planning permission for the proposed development subject to 11 conditions in November 2018. Condition No. 3 required that the proposed dwelling shall not be occupied until the works permitted to the laneway under PL29N.242866 are completed.

**PL29N.242866** (Reg. Ref. 2401/13) – Permission was granted for the demolition of building and the construction of 17 dwellings and associated site works between No. 28 and 34 Vernon Avenue and the rear of 34 to 50 Vernon Avenue and the rear of 15 – 43 Belgrove Road together with a new access from Vernon Avenue. This development to the immediate east of the subject site is nearing completion.

## 6.0 Grounds of Appeal

The decision of Dublin City Council to issue notification to refuse planning permission was the subject of a first party appeal on behalf of the applicant by Corrs and Associates.

The design of the proposed development has overcome the concerns expressed by both the planning authority and the observations in respect of previous applications. Various statements contained in the DCC's planners report in respect of impact on privacy, amenity and overshadowing support this conclusion. The proposal adequately meets the standards for separation between dwellings as set out in the development plan. It is noted that Irish Water and the Water Services Department had no objection to the proposal. It is the applicant's intentions that once completed they will move into the proposed dwelling from their existing dwelling at no. 45 Belgrove Road.

It is argued that the laneway is safe for vehicular use. The applicants have a legal right to access the rear laneway which is gated and all residents backing onto the laneway have legal access. This access is in constant use by the residents. The increase in traffic as a result of the proposal would be negligible. An Autotrack analysis confirms that vehicles are able to manoeuvre in and out of the site. The laneway already provides access to the northern block associated with Vernon mews adjacent to the entrance. All these reasons suggest that the laneway is suitable to cater for the proposed development.

It is further noted that a precedent has already been set with the grant of planning permission for a mews development fronting onto the laneway at no. 17 Belgrove Road under ABP 301905<sup>1</sup>. Reference is made to the content of the inspectors report which notes that the laneway complies with standards set out in DMURS and already accommodates vehicular traffic associated with the dwellings fronting onto Belgrove Road. It is argued that

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<sup>1</sup> The grounds of appeal refer to this decision as PL29N.248552. The latter actually related to a refusal of permission for a dwelling to the rear of no. 45 Belgrove Road.



the assessment carried out by the inspector is comprehensive and the conclusions reached in relation to the laneway is reasonable.

## 7.0 Appeal Responses

No response was received on behalf of Dublin City Council.

## 8.0 Observations

A total of 4 observations were subjected from household in the vicinity of the site. The observations were received from households residing in the vicinity of the site.

From:

- Patrick and Philomena Lawlor of 92 Kincora Road
- Linda and Michael Norton of 94 Kincora Road
- Derek Beatty of 96 Kincora Road (submitted by Hughes Development Consultants)
- Gerard and Clare Roebuck of 43 Belgrove Road.

Many of the issues raised are similar in each of the observations and for this reason they are summarised in grouped format below.

- The Board under previous applications pertaining to the site have deemed the laneway serving the site to be inadequate.
- The Board under previous applications have determined that the development of the rear garden would have adverse residential amenity impacts on surrounding properties.
- Other than the laying of tarmac there has been on improvements to the laneway and the width of the laneways is below the minimum standards.
- The proposal does not have the legal right to use the Vernon Mews access.
- The proposal will continue to have an overbearing impact and impact on privacy of adjoining property.

- The proposal continues to be an over development of the subject site.
- The proximity of the proposal to common boundaries could impact on the integrity of the boundaries through the construction of building foundations and drainage. The proposal cannot be built without trespassing on adjoining property.
- Increases in surface water run-off arising from the roof and hardstanding area has not been adequately taken into consideration in the design.
- The reduction in height from 7.531m (as per previous applications) to 4.882 m is not considered to be a substantial enough alteration. The building still occupies a substantial footprint.
- The proposal could also disturb local ecosystems in adjoining back gardens.
- The proposal will set an very undesirable precedent and will reduce Clontarf from a town of historic integrity to a shanty-town.
- Residents are suffering from building fatigue with all the development in the vicinity of the site.
- The provision of only one car parking space is insufficient.
- Fire access routes have not been clearly defined.
- The proposal will affect daylight to adjoining gardens.
- The electricity supply has not been shown and it is stated that the provision of electricity supply could clash with other underground installations.
- The overbearing impact and the impact on adjoining amenity as a result of the development will contravene the zoning objective for the site. Issues of overshadowing and overbearing have not been addressed and it is argued that the proposal will result in excessive loss of daylight and overshadowing.
- The proposal is of excessive dominance and scale.
- The proposal will result in a significant and adverse visual impact, particularly in relation to dwellings to the north of the site.

## 9.0 Planning Policy Provision

### 9.1. National Planning Framework

One of the key shared goals set out in the National Planning Framework is to achieve compact growth. This is sought by carefully managing the sustainable growth of compact cities, towns and villages. It is noted that the physical format of urban development in Ireland is one of the greatest national development challenges. Presently the fastest growing areas are the edges and outside our cities and towns meaning:

A preferred approach would be the compact development that focuses on reusing previously developed brownfield land building up infill sites which may not have been built on before and reusing and redeveloping existing sites and buildings. National Policy Objective 3B seeks to deliver at least half of all new homes that are targeted in the five cities and suburbs of Dublin, Cork, Limerick and Galway within their existing built up footprints. National Policy Objective 13 seeks that in urban areas planning and related standards including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes provided public safety is not compromised and the environment is suitably protected.

National Policy Objective 35 seeks to increase residential density in settlements, to a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

## 9.2. Dublin City Development Plan 2016 – 2022

The subject site is governed by the zoning objective Z1 the objective of which is “*to protect, provide and improve residential amenities*”. Chapter 5 of the development plan relates to housing. Policy QH1 seeks to have regard to national guidelines in relation to residential development.

Policy QH8 seeks to promote the sustainable development and vacant or underutilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

Policy QH21 seeks to ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity in accordance with the standards set out for residential development.

Policy QH22 seeks to ensure that new housing developments close to existing houses has regard to the character and scale of existing houses unless there are strong design reasons for doing otherwise.

Indicative plot ratios for the Z1 zoning objective range from 0.5 to 2.0. Indicative site coverage for the Z1 zoning objective ranges from 45 to 60%.

Section 16.10.16 relates to mews developments.

(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 of 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.

### 9.3. **Natural Heritage Designations**

The site is not located within or adjacent to a Natura 2000 site.

### 9.4. **EIAR Screening**

Having regard to the modest nature and scale of the proposed development and its location within a serviced urban removed from any sensitive locations or features 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 and a screening determination is not required.

## 10.0 Planning Assessment

I have read the entire contents of the file, visited the subject site and its surroundings, have had particular regard to the Planning Authority's reason for refusal, the grounds of appeal, the observation submitted in respect of the proposal and the planning history relating to the wider area. While the Planning Authority issued notification to refuse permission for a single reason, numerous other issues were raised. For this reason, I would recommend that the Board in adjudicating on the current application have regard to:

- Principle of Development
- Access Arrangements
- Overlooking and Amenity Issues
- Other issues

These are dealt with under separate headings below.

### 10.1. Principle of Development

The need for more compact development within existing urban areas where new development can take advantage of existing infrastructure, services and public transport operations and can locate people closer to centres of employment and can encourage greater use of more sustainable transportation modes such as cycling and walking is espoused in various policy national and regional documents including the development plan. The proposal represents a great opportunity to increase the housing stock in a desirable location within the existing urban area of Dublin. The proposal sits comfortably within the overarching objective of providing more compact development within built-up areas. The proposal also fully accords with Policy QH8 which seeks to promote the sustainable development and vacant or underutilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area. The single-storey contemporary design in my view is appropriate as it does not impact on the character of the existing houses on Belgrove Road and sits comfortably with the new infill development at Vernon Mews/Square.

The provision of a new residential development on lands governed by the land-use zoning objective Z1, residential development is acceptable in principle under this zoning objective and therefore, subject to qualitative safeguards, the principle of development is acceptable. An evaluation of qualitative safeguards is assessed under separate heading below.

## 10.2. Access Arrangements

With regard to access arrangements, the Planning Authority determined that the access serving the mews development was substandard. I estimate the current mews laneway to be between 4.5 and 5m in width. I note that inspector's report in respect of ABP301905-18 referenced the lower section of the laneway (ie the southern part running in an east -west direction) to be 4.9 metres in width. The section of laneway running northwards to the rear of the dwellings including in the vicinity of the subject site has a width in excess of 4.8 metres. With the completion of the adjoining development the laneway to the rear now accommodates a footpath along its eastern side. Along its alignment, the width of the laneway, if at all, is only marginally below the specified width of 4.8 m set out in the development plan.

DMURS recommends carriageway widths between 5 and 5.5 metres on local streets which can be reduced down to 4.8 metres where shared surfaces are proposed.

The laneway now has a segregated pedestrian and vehicular carriageway and therefore is in my view of sufficient width to accommodate an additional dwelling. It appears that the Board reached a similar conclusion in respect of ABP 301905 and ABP 307612 where it overturned the decision of Dublin City Council and granted planning permission for a mews development not unlike that currently before the Board. It is my opinion that the same circumstances arise in the case of the current application, as in all three applications seek to use the same laneway for access and therefore a relevant precedent which would justify a grant of planning permission has been demonstrated in this instance.

The Planning Authority's reasons for refusal also stated that the proposed development would be premature pending a right of access onto the public road network, presumably through the adjoining development to the east (Vernon Mews development).



In relation to this matter, I would firstly state that an alternative access is available to serve the mews dwelling onto Belgrove Road, via the mews laneway and this alternative access is in my view of sufficient width to cater for the proposed development. It appears that vehicular access to the garages to the rear facing the lane is catered for. While access to the laneway is gated, residents of Belgrove Road have access to the gate. Therefore the principle of vehicular access has been established and is currently catered for.

Furthermore, while the applicant may not have been able to demonstrate legal entitlement to use the new road serving Vernon Mews, which appears to be under the ownership of the developer, this in itself in my view should not preclude a grant of planning permission. In support of this assertion, I would refer the Board to the Development Management Guidelines for Planning Authorities (June 2007) and in particular Section 5.13 which relates to title to land. The guidelines note "*the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land*". These are ultimately matters for resolution in the Courts. In this regard it should be noted that as Section 34(13) of the Planning Acts states, "*a person is not entitled solely by reason of a permission to carry out any development*". The Board in this instance therefore would not be precluded in my view from granting planning permission for the proposed development subject to any matters relating to legal disputes, rights of way over lands to be settled between the parties concerned where this scenario arises.

Arising from my assessment above therefore and having particular regard to the precedents set by the Board's previous permissions under Reg. Ref. ABP301905-18, and 307612-20 I consider that the subject site is sufficiently well served in terms of access to allow a grant of planning permission in this instance.

### 10.3. **Overlooking/Overshadowing and Amenity Issues**

Although not specifically referred to in the reasons for refusal, it is clear from the observations submissions that some concern is expressed that the proposed development will give rise to significant levels of overlooking and overshadowing on adjoining premises.

In relation to the issue of overlooking and overshadowing, the Board should from the outset be aware that the observer's dwellings at no.'s 92,94 and 96 Kincora Road are in excess of 40 meters from the proposed site. This is considerably, in fact almost twice the stipulated distance in the development plan for the separation distance between opposing dwellings. Furthermore, the proposed dwelling is less than 5 meters in height, and incorporates only two small windows on its northern elevation which will face onto a boundary wall. The main dual aspect is on an east - west axis and therefore does not directly overlook the observer's dwellings. The rear return of no. 43 Belgrove Road is c.11 meters from the west elevation of the proposed residential unit and a boundary wall obstructs direct views between both dwellings. The potential for direct overlooking is negligible.

The maximum height of the building is 4.88m, the main bulk of the building is 3.4m height, which does not greatly exceed the boundary walls adjoining the building. The proposal will not impact at all in terms of overshadowing on the adjoining dwellings and will have a negligible impact in terms of overshadowing the rear gardens of adjoining buildings.

It is my considered opinion, having regard to the separation distances involved, that that the proposed development will have a negligible impact on surrounding amenity in terms of overlooking and overshadowing and to refuse permission on this basis, particularly having regard to national policy is not tenable.

It is also stated in the observations that a precedent has been set with the Board's previous refusal on site and therefore planning permission should not be granted in respect of the current application before the Board. In relation to access arrangements, I have set out my arguments above, and I consider a more recent precedent has been set with the grants of planning permission under ABP 301905-18 and 307612-20, where permission was granted to mews-type developments with access onto the laneway.

With regard to the overbearing nature of the proposed development, the dwelling has substantially been reduced in height from over 7m to less than 5m, with the parapet level less than 4 m in height. The proposal will have a negligible impact in terms of being overbearing. Based on the above the proposed development should not be refused on the basis of previous decision on site.

#### 10.4. Other Issues

Concerns are expressed that the proposal, being located in such close proximity to boundary walls could adversely affect the foundations of the wall. The structure is not located contiguous to the boundary wall but incorporates almost a metre separation distance between both structures. A construction management plan can be put in place to ensure that the proposed works will not affect the wall foundations. It is accepted practice in urban areas that construction can take place in close proximity to other buildings without impacting on the structural integrity of adjoining structures. If the Board consider it appropriate it can require that prior to the commencement of development, the applicant submit a construction and environmental management plan (CEMP).

With regard to the need to place scaffolding in adjoining gardens, this is a detail to be determined between the parties concerned. A grant of planning permission does not confer any rights on the applicant to enter onto adjoining land. Likewise, it does not constitute reasonable grounds for refusal.

There is no evidence to suggest that the development of the subject site will have any adverse effects on the drainage arrangements along the boundary. Should the Board consider it appropriate, it can address this issue by requiring that applicant to submit a CEMP to address this issue. Likewise, to suggest that the level of surface water run-off from such a modest proposal in a built-up area, where public surface water drainage is available does not constitute a valid reason for refusal and is not tenable in my considered opinion.

Issues with regard to electricity supply and potential impact on existing services is a matter for the utility company concerned and not a matter for the Bord in adjudicating on the application.

With regard to the construction impacts, it is acknowledged that there has been substantial development in the vicinity. However, any impacts in this regard are temporary and to refuse the development purely on these grounds would be disproportionate.

The proposed mews dwelling constitutes an infill development within a suburban area. The applicant has maintained the requisite separation distances for suburban

type development between the proposed dwelling and the existing dwellings adjacent. The applicant has also considerably reduced the scale of the proposal to ensure that the proposal is no longer overbearing. Finally, I consider recent precedents has been set with the grants of planning permission under ABP 301905-18 and 307612-20, where permission was granted to mews-type developments with access onto the laneway. On the above basis I consider the Board could overturn its previous decision and the decision of the planning authority and grant planning permission for the proposal.

#### **10.5. 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.

#### **10.6. Conclusions and Recommendation**

Arising from my assessment above, I consider that the Board should overturn the decision of the Planning Authority and grant planning permission for the proposed development based on the reasons and considerations set out below.

#### **10.7. Decision**

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

## Reasons and Considerations

Having regard to the Z1 residential objective contained in the Dublin City Development Plan 2016 – 2022, the existing pattern of development in the area, the nature, scale and design of the proposed development, 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 property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### 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 conditions require details to be agreed with the planning authority the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with agreed particulars.

**Reason:** In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. The first floor bedroom window on the eastern elevation of the proposed mews shall incorporate timber fins/louvres details of which shall be agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interest of residential amenity and to prevent overlooking of adjoining gardens.

4. The proposed dwelling shall not be occupied until the works permitted to the laneway under An Bord Pleanála appeal reference number PL29N.242866 (planning register reference number 2401/13) are completed.

**Reason:** In the interest of the proper planning and sustainable development of the area.

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

6. All costs incurred by the planning authority, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

**Reason:** In the interest of the proper planning and sustainable development of the area.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

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

**Reason:** In the interest of orderly development.

9. Prior to commencement of development, proposals for a name, numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of orderly development.

10. 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 noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

11. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwellinghouse without a prior grant of planning permission.

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

12. 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:** In order to safeguard the residential amenities of property in the vicinity.

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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**Paul Caprani**

**Senior Planning Inspector**

**21st December 2020**