



An
Bord
Pleanála

Inspector's Report ABP-307923-20

Development	Demolition of existing dwelling and construction of two storey mews dwelling.
Location	Site at the rear of no.5 Breffni Terrace, Sandycove, Co. Dublin (a protected structure).
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D20A/0277
Applicant(s)	Peter & Jacinta Maxwell
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Observers	Mary Fayne Michael & Susan Dwyer
Date of Site Inspection	14 th October 2020

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject site contains a terraced mews house located to the south/ rear of 5 Breffni Terrace, Sandycove Road, Co. Dublin on a site of 0.00929 hectares. No. 5 Breffni Terrace is listed on the record of protected structures and is one of 15 houses which forms this terrace. Access to the subject site is from Elton Court, a residential development to the south. Pedestrian/ cycle access is available from Sandycove Road.
- 1.2. Most of the Breffni Terrace houses have an independent mews unit in the rear garden. The subject unit is a dormer type dwelling with a pebble dash finish. A very narrow footpath is located along the front and car parking is very limited in the area. Some of the more modern units have car ports/ ground floor garages incorporated into the design.
- 1.3. The site is located to the east of Sandycove village with a range of retail units available. Bus services are available on the Sandycove Road primarily connecting the area to Dun Laoghaire and Dalkey/ Killiney. Glenageary DART station is circa 775 m to the south west and Sandycove & Glasthule is approximately 1 km to the west.

2.0 Proposed Development

The proposed development consists of:

- The demolition of a dormer, mid terrace mews dwelling with a stated floor area of 52 sq m.
- Construction of a replacement house with a stated floor area of 89.5 sq m, providing for a two bedroom/ four-person unit.
- All associated site works.

The application is supported with a 'Planning Report' prepared by Hughes Planning & Development Consultants.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for two reasons as follows:

‘1. Regard is had to the site location, its positioning along a mews laneway to the rear of a terrace of Protected Structures, the established built form and the character of the surrounding area, and Section 8.2.3.4 (x) Mews Lane Development of the Dun Laoghaire-Rathdown County Development Plan, 2016-2022 that requires that mews development be confined to single units in one, or two-storeys of modest size. It is therefore considered that the proposed replacement mews dwelling, in particular, by reason of its height, design, scale/ massing and layout would be excessive and out-of-keeping with the existing character and pattern of mews housing at this location, which would result in visually disruptive, overly prominent and overbearing impact on the lane, and on the adjacent properties. It is considered, that the proposed replacement house, would seriously injure the residential amenities of the area of adjoining property, by way of overshadowing impacts. It is therefore considered that the proposed development would be seriously injurious to the visual and residential amenities of this area, and the adjoining properties, and would help set a poor precedent for similar type development in the area’.

‘2. It is considered that the proposed development would materially contravene the County Development Plan with regard to rear private open space for the proposed replacement mews dwelling as detailed in Section 8.2.3.4 (x) Mews Lane Development of the Dun Laoghaire-Rathdown County Development Plan, 2016-2022, by reason of the inadequate quantitative provision of rear private open space. The proposed development would therefore seriously injure the amenities and depreciate the value of property in the vicinity, and would be contrary to the proper planning and sustainable development of the area’.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Report reflects the decision to refuse permission for the proposed development. The Planning Authority Case Officer refers to the report of the A/

Conservation Officer and the concerns raised therein, in addition to the development not providing for adequate private amenity space.

3.2.2. **Other Technical Reports**

Conservation Division – Architects’ Department: Raises an issue regarding the need to determine the architectural merit of the existing mews building and in the event that demolition is acceptable, it is considered that the proposed design is out of character with its setting. The design may be revised by way of a further information request.

Drainage Planning – Municipal Services Department: Further information requested in relation to surface water drainage.

3.2.3. **Prescribed Bodies**

None.

3.2.4. **Objections**

Three letters of objection were received to the original application including one from the Secretary of the Ronbow Management Company, formed by the owners of the properties in Elton Court.

The following points were made in summary:

- The scale of development is out of character with the area.
- The proposed unit is three storeys, not two storeys as stated in the public notices.
- The development will have a negative impact on neighbouring properties through overshadowing and overlooking leading to a loss of privacy.
- Inadequate separation distance at ground floor level.
- There is a lack of private amenity space proposed.
- The demolition of the existing mews house may structurally impact on the integrity of adjoining properties. An engineering report is requested to ascertain the potential impact.
- The proposed car parking arrangement does not comply with the requirements of the development plan.

Ronbow Management Company were concerned about the impact on their properties during the construction phase through nuisance and concern that Covid

19 may delay the completion of works. Permission is not given for the use of the Elton Court roads etc. for use during the demolition/ construction phase of development.

4.0 **Planning History**

P.A. Ref. D15A/0523 refers to an application for a similar development, however the application was withdrawn before a decision was made.

5.0 **Policy and Context**

5.1. **Development Plan**

5.1.1. Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the subject site is zoned A ‘To protect and/or improve residential amenity’. Residential development is therefore acceptable in principle. 5 Breffni Terrace is listed on the Record of Protected Structures – RPS no. 1348 refers to a ‘House Terrace’.

5.1.2. Chapter 6 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to ‘Built Heritage Strategy’. Section 6.1.3.1 ‘Policy AR1: Record of Protected Structures’ includes the following:

‘It is Council policy to:

- i. Include those structures that are considered in the opinion of the Planning Authority to be of special architectural, historical, archaeological, artistic, cultural, scientific, technical or social interest in the Record of Protected Structures (RPS).
- ii. Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- iii. Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the Department of the Arts, Heritage and the Gaeltacht ‘Architectural Heritage Protection Guidelines for Planning Authorities’ (2011).
- iv. Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.’

5.1.3. Chapter 8 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to 'Principles of Development' and the following are relevant to the subject development:

8.2.3.4 'Additional Accommodation in Existing Built-up Areas' – Section (x) refers to 'Mews Lane Development'. A number of points are included for consideration and the following are considered to be most relevant to the subject development:

'Where the Planning Authority accepts the principle of residential development on a particular laneway, the following standards will generally apply:

- Development will be confined to single units in one or two storeys of modest size and the separation distance between the rear facade of the existing main structure (onto the front road) and the rear mews structure should normally be a minimum of 20 metres and not less than 15 metres, or not less than 22 metres where first floor windows of habitable rooms directly face each other.
- Setting back of dwellings and boundary walls may be required dependant on existing building lines, lane width, character and parking/access.
- Dwellings and boundary walls may be required to reflect the scale, height, materials and finish of existing walls and buildings, particularly where old coach houses and two storey structures are involved.
- All parking provision in mews laneways should be in off-street garages, integral garages (car ports), forecourts or courtyards, and conditions to 'de-exempt' garage conversions will normally be attached. At least one off-street parking space per dwelling will generally be required. Where two spaces can be reasonably accommodated these should be provided. Part set-backs of frontage for on-street parallel parking may be considered depending on lane width and structure types.
- Each dwelling shall generally have a private open space area of not less than circa 48 sq.m. exclusive of car parking area. A financial contribution in lieu of public open space provision may be required.
- Where dwellings are permitted on both sides of a lane, habitable room windows must be set out to minimise direct overlooking of each other where less than 9 metres apart'.

‘All mews laneways will be considered to be shared surfaces and footpaths need not necessarily be provided. If external street/security lighting is warranted, only a minimal level and wall-mounted type(s) may need to be provided. Opportunities should be undertaken to improve permeability and connectivity to and from the development as part of the Development Management process.

Reduced standards from the above may be acceptable, particularly in cases of conversion of existing two storey structures in sound condition and of particular architectural and/or townscape value.

Applications should clearly state the requirements and method statement for bin storage and collection, car parking, access and similar details’.

8.2.11 ‘Archaeological and Architectural Heritage’ – with particular reference to Section ‘8.2.11.2 Architectural Heritage – Protected Structures’ and the following parts:

‘The inclusion of a structure in the Record of Protected Structures does not prevent a change of use of the structure, and/or development of, and/or extension to, provided that the impact of any proposed development does not negatively affect the character of the Protected Structure and its setting (Refer also to Section 6.1.3)’ and

‘All development proposals potentially impacting on Protected Structures shall have regard to the Department of the Arts, Heritage and the Gaeltacht ‘Architectural Heritage Protection Guidelines for Planning Authorities’, (2011).

The refurbishment, re-use and, where appropriate, redevelopment of Protected Structures, and their setting, shall not adversely affect the character and special interest of the building’.

Also relevant:

‘(iii) Development in Proximity to a Protected Structure

Any proposed development within the curtilage, attendant grounds or in close proximity to a Protected Structure has the potential to adversely affect its setting and amenity. The overall guiding principle will be an insistence on high quality in both materials and design which both respects and compliments the Protected Structure

and its setting. Innovative design in accordance with international best practice is encouraged. Pastiche design should be avoided as it confuses the historical record of the existing building and diminishes its architectural integrity’.

5.2. Ministerial Guidelines

- Architectural Heritage Protection - Guidelines for Planning Authorities (2011, DoAHG)

5.3. Natural Heritage Designations

5.3.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The applicant has engaged the services of Hughes Planning & Development Consultants to prepare an appeal against the decision of Dun Laoghaire-Rathdown County Council to refuse permission for this development.

Issues raised in the appeal include:

- The applicants wish to downsize from their home in no. 5 Breffni Terrace to this unit.
- The height of the development is appropriately designed having regard to efficient use of the site and to ensure that there is no undue impact on the visual amenity of the area.
- The house complies with current room size standards.
- The development does not negatively impact on the residential amenity of adjoining properties. Notes that the Planning Authority Case Officer raised no concerns in relation to overlooking and the design has included measures to ensure that this issue does not arise.
- As previous Section 5 proposal, if carried out, would reduce the private amenity space serving the existing house to similar to the currently proposed 25 sq m.

- The appeal provides a number of precedents for similar reduced private amenity space provision.
- The development provides for car and bicycle parking.
- Request that permission be granted for the development as submitted.

A shadow analysis has been submitted and some additional photomontages in support of the appeal.

6.2. Observations

6.2.1. An observation has been received from Mary Fayne and the following comments are made in summary:

- The development is attached to her house, no. 4 Breffni Terrace. No engineering report has been provided demonstrating that her house will not be impacted by the proposed demolition/ development.
- The scale, bulk and massing of the proposed development would be overbearing on the adjoining properties/ character of the area.
- The development is contrary to the requirements of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 in relation to mews type developments.
- Refers to her submission to the Planning Authority and requests that the development be refused permission.

6.2.2. An observation has been received from Michael & Susan O'Dwyer of 4 Breffni Terrace and the following comments are made in summary:

- Refer to the appeal comments that the development will not impact on the visual amenity of the area when viewed from the front, agree with this comment, however concern is expressed about the visual impact when viewed from the rear. The development will be overly prominent, overbearing and will reduce the amenity value of their property.

The observation restates the comments made in submission to the Planning Authority, in summary as follows:

- Scale is out of character with the area.

- This is a three-storey unit.
- The development will give rise to overshadowing/ loss of light of neighbouring properties.
- Separation distance at ground floor level is not acceptable.
- The development will give rise to overlooking.
- The development does not provide for adequate private amenity space.

6.3. **Planning Authority Response**

- The grounds of appeal do not raise any new matter that would justify a change of attitude by the Planning Authority to the proposed development.

7.0 **Assessment**

The main issues that arise for assessment in relation to this appeal can be addressed under the following headings:

- Nature of the Development
- Design and Impact on the Character of the Area
- Impact on Protected Structure
- Impact on Residential Amenity
- Other Issues
- Appropriate Assessment Screening

7.1. **Nature of the Development**

- 7.1.1. I have had full regard to the planning status of this site, the information submitted with the application, the observations received and the report of the Planning Authority, including their internal consultee reports especially that of the A/ Conservation Officer.
- 7.1.2. The proposed development is acceptable in principle in that the site is zoned 'A' and is therefore suitable for residential development. In addition, the proposed development is for the replacement of an existing mews house with a larger/ more modern unit.

7.2. Design and Impact on the Character of the Area

- 7.2.1. The existing mews house is a one and a half storey unit, with the upper floor being an attic space with dormers to the front and rooflights to the rear. This house has a height of 5.7 m and provides for two small bedrooms. The existing unit is very small and room sizes are unlikely to comply with current minimum standards. Floor to ceiling heights, especially at first floor level are also substandard. The existing unit has a stated private amenity space of 48.6 sq m.
- 7.2.2. Although the existing house is small, it is in keeping with the style and character of existing units on this stretch of street. The proposal is for a significantly larger house, providing for a three-storey unit with two double bedrooms indicated at first floor level. An 'attic/ store' indicated at second floor level with a floor area of 43.9 sq m appears to be capable of accommodating an additional bedroom, though this is not indicated on the submitted plans. The scale and height difference of the proposed house in relation to the existing unit is clearly demonstrated on the submitted Sections on 'Drawing Number: PP-08'. The proposed height at 8.3 m is significantly greater than the existing 5.7 m and it is considered that this is excessive. The county development plan guides such development to be in the form of single or two storey units; this is a three storey unit and is therefore contrary to the requirements of the county development plan.
- 7.2.3. The proposed house will project over the other mews units on this section of street and whilst the submitted photomontages present a relatively positive indication of how this house will look, I would have concerns that it would become the dominant feature here. The existing house is in effect a one and an half storey unit, this is a three-storey unit as the attic space is easily convertible to habitable use. It is considered that a two-storey unit would be acceptable here when viewed from the street.
- 7.2.4. The visual impact when viewed from the rear of Breffni Terrace and from the rear gardens of the adjoining units is likely to be considerable. The rear elevations indicate a much taller unit house than the adjoining units and which will dominate them. It is therefore considered that the proposed development will be overbearing and out of character with the established form/ character of the area.

7.2.5. The development plan provides for clear guidance on the requirements for a mews development and I consider that the submitted application does not demonstrate sufficient compliance.

7.3. Impact on Protected Structure

7.3.1. I note the report of the A/ Conservation Officer of Dun Laoghaire-Rathdown County Council. Further information was requested in regard to the architectural/ historic merit of the existing building. The appeal has not referred or addressed this issue. The second issue raised was the design of the proposed replacement house and finally the impact on the protected structure was considered. I agree with the submitted report, that the house requires revision and I have already suggested that a two-storey unit may be acceptable here.

7.3.2. From the site visit, it was apparent that the development would not impact on the character of Breffni Terrace when viewed from the public road/ Sandycove Road, however from the laneway/ street to the rear, the impact is more significant. I have already reported on the impact on the lane but the height and design of the new house, if constructed, would result in an overly dominant structure that would erode the character of the terrace through the development of a competing unit. This would set an undesirable precedent for similar units and over time the setting of Breffni Terrace would be negatively impacted upon. The separation distance between the rear of the proposed house and the rear of the original No. 5 is acceptable in terms of complying with the development plan. Comment was made in one of the submissions regarding insufficient separation at ground floor level, I am satisfied that the proposed separation is acceptable in quantitative terms.

7.4. Impact on Residential Amenity

7.4.1. The proposed house will provide for a significantly larger unit and a consequently higher quality of residential amenity than is the case with the existing house. The proposed house will only be served by a private amenity space of only 27 sq m. This not acceptable, it is considered that a two-bedroom unit should provide for a minimum of 48 sq m. I note the references in the appeal to the Section 5 Exemption and the fact that only 25 sq m of open space is necessary. This is a new build house and as such should comply with minimum standards, the exempted development requirements are not relevant to the case. The proposed unit can accommodate

more residents than the existing unit and yet it is proposed that less amenity space be provided. The applicants/ appellants have the right to extend the existing house within the requirements of the Planning and Development Regulations 2001 as amended. The proposed unit therefore does not provide for adequate private amenity space for future residents.

- 7.4.2. I am generally satisfied that overlooking leading to a loss of privacy of adjoining properties does not arise as measures have been taken to prevent first floor overlooking to the rear. The submitted shadow analysis does give rise for concern indicating a loss of afternoon sunlight on 21st March, 21st September and some loss in June. The analysis for each day is at the same time of 1200 hours and 1600 hours. I would be concerned that as sunset is later in June, and that 16.00 as the indicative shadow fall time is relatively early in the evening, that the adjoining unit to the east, no.6 Breffni Terrace Mews, would suffer significant loss of sunlight in the late afternoon and evening in June. This reduction in sunlight/ daylight would erode the residential amenity of no.6 Breffni Terrace Mews, especially in the evening. Morning shadow will be increased for the property to the west, though I consider the impact from this to be less than the loss of afternoon/ evening sunlight.
- 7.4.3. Concern was expressed in one of the submissions regarding potential structural impact, this is noted, however such concerns would be addressed under different legislation and not under the Planning and Development Acts.

7.5. Other Issues

- 7.5.1. No report has been received from the Planning Authority's Transportation Department, with particular reference to the proposed car parking space. The layout of this space appears to be restrictive through its width of 3 m and projections in the form of a 'Brick Screen' protecting the bicycle parking area and part of the house projects forward to facilitate the internal staircase. Access to this space may be difficult and requires a number of manoeuvres to park the car off-street. The provision of this space has resulted in the house being set back into the site and consequently giving rise to the issues of overshadowing and overbearing.
- 7.5.2. The comments of the Drainage Planning – Municipal Services Department are noted, it should be possible to address these issues, though again a smaller house with more private amenity space may be the easiest way to address these issues.

7.5.3. The development of mews type houses was usually for the purposes of providing for small houses to the rear gardens of larger units, usually with a separate independent entrance. I appreciate that the existing house provides for limited residential amenity, but what is proposed is a significantly larger unit than the traditional concept of a mews house and which will impact negatively on the visual and residential amenity of the area in addition to a negative impact on 5 Breffni Terrace.

7.6. **Appropriate Assessment Screening**

7.6.1. Having regard to the nature and scale of the proposed development and the location of the site in an established 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 give rise to a significant effect individually or in combination with other plans or projects on an European site.

8.0 **Recommendation**

8.1. I recommend that permission be refused for the following reason and considerations as set out below.

9.0 **Reasons and Considerations**

1. Having regard to the limited size of the site and the scale of development proposed, it is considered that the proposed development would result in an unsatisfactory standard of residential amenity for future occupants of the house and result in overdevelopment of the site by reason of inadequate provision of good quality open space. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development, by reason of its excessive height relative to surrounding buildings, its bulk, massing and its design would be out of character with the pattern of development in the vicinity in addition to being overbearing, and would constitute a visually discordant feature that would be detrimental to the distinctive architectural and historic character of this area including impacting on Breffni Terrace, consisting of houses listed on the record of protected structures, and which

it is appropriate to preserve. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development provides for a three-storey mews house development which is contrary to 8.2.3.4 'Additional Accommodation in Existing Built-up Areas' – Section (x) 'Mews Lane Development', of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 and the excessive height and bulk of the house would give rise to overshadowing, leading to a loss of sunlight, of the rear amenity space of the house to the east, no. 6 Breffni Terrace Mews. The proposed development would, therefore, seriously injure the residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Paul O'Brien
Planning Inspector

22nd December 2020