



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308061-20

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<b>Development</b>	The development will consist of revisions to the previously granted permission File Register Reference 2064/18 for the provision of an additional mews dwelling.
<b>Location</b>	121, Strand Road, Sandymount, Dublin 4
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	2841/20
<b>Applicant(s)</b>	Ceanna Walsh
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Ceanna Walsh
<b>Observer(s)</b>	Christian & Emma Harney de Vries Stephen & Mary Gately
<b>Date of Site Inspection</b>	23/10/2020.
<b>Inspector</b>	Gillian Kane

## **1.0 Site Location and Description**

- 1.1.1. The site is located off the western side of Strand Road, Sandymount, a short distance north west of the Martello Tower and the junction with St John's Road. The site is towards the end of a narrow private laneway currently providing access to two mews dwellings. On the opposite side of Strand Road is the seafront linear park and promenade.
- 1.1.2. The site is to the rear of no. 121, Strand Road – a two storey over basement end of a terrace of three dwellings. To the north of the appeal site, and to the rear of no. 119 Strand Road, is a single storey mews (which appeared vacant at the time of inspection); this has fenestration facing south and the appeal site. Adjoining to the north of this, and to the rear of no. 117, is a two-storey mews. To the west of the appeal site is Westwood Club, tennis courts and parking. To the south, and on the opposite side of the laneway is a two-storey dwelling fronting on to Strand Road (no. 123, Strand Road).
- 1.1.3. No. 121, Strand Road was undergoing refurbishment and 3 storey extension to the rear at the time of inspection.

## **2.0 Proposed Development**

- 2.1. On the 10<sup>th</sup> June 2020, planning permission was sought for revisions to a previous permission ((ABP-302829-18) to provide a car parking space to the front of the dwelling, inclusive of localised widening of the existing laneway and stone wall removal to provide for 2 no. passing bays to the front and rear of the site, revision to the dwelling to provide for the car parking space, internal layout revisions and provision of a new vehicular car parking space in front of the main dwelling at no. 121.
- 2.2. The application was accompanied by a cover letter and a Traffic Report.

## **3.0 Planning Authority Decision**

### **3.1 Decision**

- 3.1.1. On the 4<sup>th</sup> August 2020 the Planning Authority issued a notification of their intention to REFUSE permission for the following reason:

- 1 The subject proposal for a parking space to the front of a mews dwelling and for works to the front of the main house and laneway fronting on to Strand Road would result in an unacceptable negative impact in terms of visual amenity for the subject dwelling at no. 121 and on the amenity of adjoining dwellings within the Z2 area. The proposal would also set an undesirable precedent for similar type development, which would have a negative impact on the character and setting of the Z2 areas and as such the proposal would not be in accordance with the proper planning and sustainable development of the area.

### 3.2. **Planning Authority Reports**

- 3.2.1. **Drainage Division:** No objection subject to standard conditions.
- 3.2.2. **Transportation Planning:** No objection subject to 4 no. conditions.
- 3.2.3. **Planning Report:** There are serious concerns regarding the visual impact of the proposed works on the front garden of no. 121. Development plan guidance is that front gardens remain as front gardens as the excessive removal of front boundary walls or railings. Notes the decision of An Bord Pleanála at no. 119A and states that while it is physically possible to allow for vehicular movements on the lane, the physical interventions required are significant and intrusive and contrary to development plan policy. The incorporation of the front garden of no. 121 into the laneway would permanently alter the character and setting of the period dwelling. Recommendation to refuse permission.

### 3.3. **Prescribed Bodies**

None on file.

### 3.4. **Third Party Observations**

- 3.4.1. Support and opposition for the proposed development. Issues raised as per those of the Observations.

## 4.0 **Planning History**

- 4.1.1. **ABP-302839-19:** Planning permission was granted for (a) The provision of a new one/two/three-storey, three-bedroom split level dwelling to the rear of the existing house. (b) The provision of one new off-street parking space with access from

existing private laneway via existing vehicular access to Strand Road. (c) All associated landscaping, roof lights, refuse store, bicycle storage, site works and boundary wall revisions. (d) The widening of the existing vehicular access from the private access lane onto Strand Road, all at 121 Strand Road, Sandymount, Dublin,

**Condition no. 4** of the decision states: “There shall be no vehicular access to the site as part of this development. Reason: In the interest of the proper planning and sustainable development of the area.

- 4.1.2. Planning Authority reg. ref. **4250/16**: Permission granted for development including change of use from 10 bedsits to single dwelling, replacement of three-storey return and extension to the rear of 121, Strand Road.
- 4.1.3. Planning Authority reg. ref. **2785/18**: Permission granted for revisions to previously granted three-storey return extension at 121, Strand Road and permission refused for retention and revision of a setback, dormer room at the 2<sup>nd</sup> floor/roof level of previously granted three-storey return. The reason for refusal of this element refers to visual obtrusiveness and dominance when viewed from adjacent properties by reasons of scale and mass.
- 4.1.4. **E0233/18**: Enforcement file relating to works undertaken but not in accordance with 4250/16.
- 4.1.5. **PL29S.218979**: Permission refused on appeal for two-storey mews dwelling to the rear of 121, Strand Road. The reason for refusal refers to the restricted nature of the site and pattern of development in the area, and concludes that the proposal would have an overbearing impact on the adjoining single storey mews (n0. 199a) and an unacceptable level of overshadowing, overlooking of properties to the east, inadequate separation between houses on Strand Road, and substandard quality and quantity of private open space. (Permission had been granted by the Planning Authority under reference 3037/06).

## 4.2. **Adjoining Sites**

- 4.2.1. **ABB-306812-20**: Planning permission granted for the demolition of single storey dwelling and the provision of a courtyard style mews dwelling with car parking and balcony to front as previously granted permission Reg. Ref. 1690/07

- 4.2.2. Planning Authority reg. ref. **3536/02**: Permission granted for first floor extension to mews at 117A Strand Road.
- 4.2.3. **PL29S.223327**: Permission granted for two-storey dwelling to the rear of 119 Strand Road.
- 4.2.4. Planning Authority reg. ref. **2180/14**: Permission granted for use of entire of 117 Strand Road as a single dwelling.

## **5.0 Policy Context**

### **5.1. Development Plan**

- 5.1.1. The site is zoned Z2 with the objective 'to protect and/or improve the amenities of residential conservation areas.
- 5.1.2. The policies of the plan in relation to Conservation Areas are set out in Section 11.1.5.4 of the Plan. Relevant policies include the following;
- CHC1 – Preservation of the built heritage of the city.
  - CHC4 – Protection of special interest and character of Conservation Areas.
  - CHC8 – Facilitate off-street car parking in while protecting the character of protected structures and Conservation Areas.
- 5.1.3. Table 16.1 of the Dublin City Development Plan 2016-2022 sets out the maximum parking standard for houses as 1 space per dwelling in Parking Area 2.
- 5.1.4. Section 16.10.16 relates to Mews Dwellings.

### **5.2. Natural Heritage Designations**

- 5.2.1. South Dublin Bay SAC (Code 000210) with conservation objectives relating to tidal, mudflats and sandflats.
- 5.2.2. South Dublin SPA (Codes 04024) relating to intertidal habitat.

### **5.3. EIA Screening**

- 5.3.1. In regard to the nature and scale of the development in an urban area, 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. The applicant has appealed the decision of the Planning Authority to refuse permission. The grounds of the appeal can be summarised as follows:

- The decision of the Planning Authority fails to take consideration of the recent planning history in the vicinity of the site, where over 70no. properties on Strand Road have vehicular access.
- The omission of the proposed removal of 8.3m of stone wall would obviate the reason for refusal and remove the Planning Authority's concern.
- The decision of the Board (306812) to grant permission for parking at 119A Strand Road recognises that the lane is a shared driveway and not a mews. The Board acknowledged that the lane does not facilitate through traffic or unlimited potential for mews development.
- The shared driveway is in the applicants ownership and the residents of the mews at 119A and 117 Strand road have a right of way over the access driveway. The driveway has a gate to Strand Road and established vehicular access without constraint or impediment. Therefore, the standards for mews lanes do not apply. The established width of the laneway was considered satisfactory in terms of traffic safety.
- Condition no. 4 of the parent permission arose from a Planning Authority request for additional information.
- No. 121 Strand Road historically contained ten bedsits, with vehicular access via the shared driveway / lane which was gated. The proposed development along with the refurbishment of the main dwelling into a single-family home provides for a significant decrease in vehicular traffic.
- The transportation department recommended a grant of permission. The mitigation measures were not required when the Board granted vehicular access to no. 119 and are not necessary for the subject site.
- It is reasonable and logical that the main beneficiary of the laneway should be the owner of that laneway.

- The applicant is pregnant and requires on site parking. There is no possibility of on-road parking due to a bus stop and double yellow lines on Strand Road. The nearest parking is at the Martello Tower, with no pedestrian crossing.
- The other dwellings on the terrace have on-site parking to the front. In the form of tarmac. The proposed development comprises conservation grade material and retains the existing gates, screening any visual change.
- It is submitted that the mitigation measure of the passing layby and resultant removal of stone wall is the concern, rather than parking in the front of no. 121. The Planning Authority could have granted permission with a condition requiring landscaping, the reduction of the opening to 5m and the omission of the lay-by.
- Parking should be incorporated in a visually pleasing manner to enhance the residential amenity of the area.
- The applicant proposes to amend the proposed development as follows:
  - Reduction in gate opening in the side boundary wall to 5m, maintaining enclosure of the front garden and facilitating the curved radius needed to access parking,
  - Provision of an automatic gate mechanism to the reconfigured original gates. A four second opening interval would avoid delay to entry. This would retain the design character, similar to the existing on Strand Road
  - Conservation grade materials in the garden
  - No delineation of the parking space and landscaping of the garden with box hedging and topiary planting, screening the parking and providing a high amenity space. Amended plans submitted.
- The proposed works would not be visible from Strand Road or outside the context of the site.
- The existing design character of the area has a poor visual amenity. The proposed development would enhance the visual amenity of the area.
- The proposed development is in accordance with the Z2 residential zoning objective for the area.

- The Board is requested to grant permission.

## 6.2. Planning Authority Response

- 6.2.1. None on file.

## 6.3. Observations

### 6.3.1. Stephen & Mary Gately, 119 Strand Road

- Too much development between 121, 121A and 119A Strand Road,
- The ownership of the lane is in dispute.
- The Observers use the lane frequently.
- Car parking was never provided for 121.
- The provision of car parking is an obvious solution.

### 6.3.2. Christiaan & Emma Harney de Vries, 117A Strand Road

- The Board is requested to refuse permission.
- The amendment proposed by the appeal (5m gap in wall) voids the reason for a passing bay and only provides parking for no. 121. It will cause traffic hazard on the lane.
- The space marked out for a car on the subject site is too small. The vehicle will have to reverse out, endangering pedestrians and children on the lane.
- The laneway is not a shared driveway. It is a right-of-way, with access to 117, 119A, the rear of 113 and 115. An image from the deeds for 121 demonstrates that the applicants do not own the full laneway. The applicants own the laneway up to and behind their back yard, after which ownership is taken over by 117A and 119A.
- Placing a locked gate on a laneway over which others have a right of way cannot be permitted.
- Photos (submitted) show that the laneway was never used for parking and that the laneway was not gated. Communication from agents for no. 121 promised that the wall would be reinstated.
- It is submitted that in allowing vehicular access to no. 119 despite a negative traffic report, the Board have permitted a dangerous situation.
- Most residents use the pedestrian crossing at the Martello Tower.



- Some of the houses on Strand Road do not have parking in the front garden. Most of these are further away from the parking on Strand Road.
- The submission of the applicant that there were no major traffic incidents recoded on Strand Road is rejected.
- The precedents of on-site parking submitted by the applicant pre-date planning legislation. They should not be used as good examples.
- The applicants proposed amendments will be visible and will destroy the unique characteristics of the area.
- The applicant purchased the house knowing that there was no parking. Maintaining the current situation will not cause a traffic hazard.
- The proposed amendments at appeal stage are a reason for refusal as not everyone will have the right to make observations.
- The proposed 2021 cycle lane along Strand Road will be negatively affected by the applicants need to reverse out on to Strand Road. A swept path analysis should have been requested.
- The applicants photos are from Lea Road, not Strand Road.
- The appeal does not address the proposed changes to the permitted mews.
- There are safe pedestrian crossings at the Martello Tower and near Gilford Road.
- The Board is requested to refuse permission.

#### 6.4. **Further Responses**

- 6.4.1. None on file.

### 7.0 **Assessment**

- 7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development including the various submissions from the applicant, the Observers and the planning authority. I am satisfied that the single issue raised is the principle of the proposed development.

## 7.2. Principle of Development

- 7.2.1. The proposed amendments to the permitted mews are acceptable. The amendments are not material or significant and will not impact the residential or visual amenity of any of the properties in the area.
- 7.2.2. The use of the lane to the side of 121 for vehicular access to the rear of the dwellings on Strand Road has been accepted by the Board under ABP-305527-19 and ABP-306812-20. I am satisfied therefore that the use of the lane to provide vehicular access to the rear of no. 121 is acceptable in principle. The ownership of the lane is a civil matter, not for the jurisdiction of the Board. Notwithstanding ownership, the installation of gates on the lane is not acceptable. Should the Board decide to grant permission, the proposed gates at the access on to Strand Road should be omitted by way of condition.
- 7.2.3. Regarding the previous decision by the Board (302839) to refuse permission for vehicular access to the subject site, I note that the Inspector for the parent permission addressed the provision of a car parking space on the subject site. He stated "The proposal permitted by the planning authority, following the submission of additional information, does not include provision for an on-site car parking space. The planning authority has included a condition prohibiting vehicular access to the site as part of this development for reason 'in the interest of the proper planning and development of the area'. Given the very restricted nature of the laneway, and in the absence of a detailed assessment of safety issues which could arise from any increase in the vehicular use of the laneway, I consider that a condition prohibiting vehicular access to the proposed development is reasonable." A traffic review has been submitted with the subject application. The review states that the level of traffic generated by the proposed mews space and the space to the front of no. 121 would have a negligible impact.
- 7.2.4. I note that the Transportation Department have no objection to the proposed development, subject to the mitigation measures proposed in the development – namely the provision of a passing bay within the front garden of no. 121. Noting the Planning Authority's objection to this, on the grounds that it required the removal of an 8.3m length of stone wall, the proposal has been amended at appeal stage. The amended drawings submitted to the Board on the 31<sup>st</sup> August 2020 omit the proposed passing bay, instead proposing a 5m opening in the boundary wall of the

front garden at no. 121. This would allow a car to park in the front of no. 121 but would not allow the passing of two cars on the lane.

- 7.2.5. In granting permission for vehicular access at 117A (ABP-305527-19) and 119A (ABP-306812-20), the Board has accepted that the lane is safe for use by up to three cars, without the need for a passing bay – given that parking for no. 121 is currently at the rear. I am satisfied that this is also the case under the subject proposal and that the need for a passing bay is not required for a lane that will ordinarily accommodate only three cars. If traffic obstruction has not yet occurred, it is unlikely to change should permission be granted in the subject proposal. I note however, that a large section of the side boundary wall of no. 121 has been removed as part of the ongoing construction works at no. 121.
- 7.2.6. This final element in the proposal is the provision of a car parking space in the front garden of no. 121 Strand Road. The Planning Authority's single reason for refusal relates only to this, stating that there would be an unacceptable negative impact in terms of visual amenity and a negative impact on the character and setting of the Z2 areas.
- 7.2.7. Responding to this, the appellant notes that many of the houses along Strand Road have on-site car parking, that on-street parking is difficult and that the proposed development would be carried out to best conservation practice.
- 7.2.8. It is not clear how the parking requirements of no. 121 were served before the mews dwelling was permitted. It can be presumed, as is the norm in such situations, that parking was to be provided at the rear, on the current mews site. In deciding to develop the mews site, one must assume that the applicants of no. 121 were aware that this was removing their parking provision. I draw the Boards attention to paragraph (h) of section 16.10.16 of the development plan which refers to Mews Dwellings. It states that 'new mews development should not inhibit vehicular access to car parking space at the rear for the benefit of the main frontage premises, where this space exists at present'.
- 7.2.9. Notwithstanding the above, Section 16.10.18 of the development plan refers to parking in the curtilage of protected structures and in conservation areas. It states that poorly designed off-street parking in the front gardens can have an adverse effect on the special interest and character of these areas. The section goes on to

say that such proposals will generally not be entertained as they can lead to the erosion of the character and amenity of the area. The same section notes that parking can be acceptable where the following conditions are met:

- Every reasonable effort is made to protect the integrity of the protected structure and/or conservation area
- There is sufficient depth available in the garden to accommodate a private parked car
- Access to and egress from the proposed parking space will not give rise to a traffic hazard
- The proposal accords with the design criteria set out in Chapter 16
- The remaining soft landscaped area to the front of the structures should generally be in excess of half of the total area of the front garden space, exclusive of car parking area, footpaths, and hard surfacing
- Car parking shall be designed so that it is set-back from the house and front boundary wall to avoid excessive impact on the protected structure
- Car parking bays shall be no greater than 5 m x 3 m metres wide
- The proposed vehicular entrance should, where possible, be combined with the existing pedestrian entrance so as to form an entrance no greater than 2.6 m and this combined entrance should be no greater than half the total width of the garden at the road boundary. The gates shall not swing outwards so as to cause an obstruction on the public footpath.
- Where cast iron railings exist, which contribute to the special character of the structure, every effort will be made to preserve and to maintain the maximum amount of original form and construction through minimum intervention. Any original existing gates, piers and cast iron railings that require alterations shall be reused and integrated with all new parking
- Adaptations to the front boundary
- Special regard will be had to circumstances where on-street parking facilities are restricted as a consequence of the introduction of bus priority measures or other traffic management changes. In such situations, every reasonable effort will be

made to facilitate proposals for off-street parking in the front gardens of protected structures and in conservation areas subject to the above criteria being met.

- 7.2.10. The proposed development accords with most of the above criteria. As it seeks an opening in the laneway boundary rather than the front / street boundary, the proviso's regarding railings, combination with pedestrian gate and impact on Strand Road are not relevant. I draw the Boards attention to drawing no. PA/014/D which shows a landscaped planting, the reinstatement of the front pedestrian gate and a front boundary wall. It is considered that such a proposal is more successful from a visual and streetscape impact than many of the tarmac / no boundary wall on-site parking along Strand Road. If undertaken successfully, the parking at the front of no. 121 should not be visible from Strand Road and only a glimpse from the laneway.
- 7.2.11. I am satisfied that the proposed development complies with the requirements of section 16.10.18 of the development plan and would not adversely impact the character or setting of the terrace of dwellings on Strand Road.

### **7.3. Appropriate Assessment**

- 7.3.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

## **8.0 Recommendation**

- 8.1. I recommend permission be GRANTED for the following reasons and considerations and subject to the following conditions:

## **9.0 Reasons and Considerations**

- 9.1.1. Having regard to the nature and scale of the development proposed, to the pattern of development in the vicinity, to the planning history of the subject and adjoining sites, and to the policies of the Dublin City Development Plan 2016 - 2022, it is considered that, subject to compliance with the conditions set out below, the development proposed would not seriously injure the amenities of the area or of property in the vicinity, and would not detract from the character of the area. The development

proposed for retention would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the plans and particulars received by An Bord Pleanála on the 31st day of August, 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The proposed vehicular entrance gate across the laneway serving the subject site, no. 119A and 117A Strand Road shall be omitted.</p> <p><b>Reason:</b> In the interest of traffic safety.</p>
3.	<p>Notwithstanding the provisions of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, no extensions, garages, stores, offices or similar structures, shall be erected without the prior grant of planning permission.</p> <p><b>Reason:</b> In the interests of residential amenity and in order to ensure sufficient private open space be retained for the occupants of the proposed dwelling.</p>

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Gillian Kane  
Senior Planning Inspector

10 November 2020