



An
Bord
Pleanála

Inspector's Report ABP-308268-20.

Development	Permission to retain and complete alterations to previously approved garage. Permission sought to change the use of the detached garage to mews house.
Location	3 Sydenham Road, Ballsbridge, Dublin 4.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3001/20.
Applicant(s)	Dr. Paula Bolger.
Type of Application	Retention & Permission.
Planning Authority Decision	Split Decision.
Type of Appeal	First Party
Appellant(s)	Dr. Paula Bolger.
Observer(s)	None.
Date of Site Inspection	02/12/2020.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located on Sydenham Road, a small cul-de-sac off Merrion Road, and across from the RDS in Ballsbridge. There are 9 two storey houses in a terrace of 5 to the west of the road and 4 to the east. The subject site is a mid-terrace house on the eastern side of the road. At the end of the cul-de-sac, there are gates which provide access to Sydenham Court, an apartment complex which includes two 4 storey red-brick blocks.
- 1.2. The houses are Edwardian style red-brick houses with projecting bay windows to the front elevation. The sites of the houses are long and narrow, and the subject site is indicated as being 7.644m in width and approximately 58m in length. All of the houses in this terrace have included dormer windows in the front elevations. The rear of these houses all include 3 storey returns. No. 1 Sydenham Road, which lies immediately to the south of the subject site, has been altered to provide multiple units.
- 1.3. There is a laneway which runs to the south of the end terrace house and provides access to the rear of all 4 houses to the east of the street. This laneway will provide access to the proposed development site, and if permitted, future mews house. The laneway ranges in width from between approximately 2.1m and 2.9m as it runs perpendicular to Sydenham Road and increases to approximately 5m at the rear of the houses. This laneway serves as rear access to a number of properties which front onto Merrion Road also.
- 1.4. The total site area is indicated at 413m² and the floor area of the existing house is 256m².

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices to
 - Retain and complete alterations to previous approved Planning Ref 3546/17 for the construction of a detached garage building with a converted attic space with a pitched roof with roof lights within both roof slopes.

- Planning Permission is sought for change of use of the detached garage building with a converted attic space, to a 2 bedroom 2 storey mews house. The first floor is within the converted attic space.
- Other works for which Planning Permission is sought include:
 - (1) An increase of 16m² floor area at first floor / attic floor level (total first floor / attic floor area = 54m²)
 - (2) The roof shape has been revised from a pitched roof with roof lights within both roof slopes to a pitched roof with dormer windows within the front and rear slope. The roof height has been increased by 218mm
 - (3) Connections to all services and
 - (4) All necessary ancillary site development works to facilitate this development.
- Retention Planning Permission is sought for works carried out to date as per approved Planning Ref 3546/17 to include the construction of an increased ground floor area of 6m², (total ground floor area = 54m²), all at 3 Sydenham Road, Ballsbridge, Dublin 4

2.2. The application included a number of supporting documents including as follows;

- Plans, particulars and completed planning application form
- Planning Report
- Section 96 of the Planning & Development Act 2000, as amended, Certificate of Exemption

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to issue a split decision, granting permission for the retention of works carried out to date as per approved permission to include the construction of an increased ground floor area of 6m² (total ground floor area of 54m²) subject to 5 conditions.

In addition to the above, the Planning Authority decided to refuse planning permission for the proposed change of use of the garage to a two bedroomed mews house for the following stated reason:

Having regard to the provisions of the current Dublin City Development Plan (2016-22) including Section 16.10.16 which sets out standards for mews dwellings and Appendix 5.1 in relation to road and footpath standards, the access laneway to the proposed new dwelling is substandard in width and the proposed use would result in pedestrian and vehicular conflict which, in itself and taken cumulatively with the impact of other existing and potential uses along the rear lane and the laneway which provides access to it, would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the provisions of the current development plan, and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the City Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The Planning Report concludes that proposed change of use of the garage to a mews house not acceptable. The Planning Officer recommends that permission be refused for this element of the proposed development, for reasons relating to the substandard width of the laneway and the proposed use resulting in pedestrian and vehicular conflict which would endanger public safety by reason of traffic hazard.

This Planning Report formed the basis of the Planning Authority's decision to refuse the mews use element of the planning application.

3.2.2. Other Technical Reports

Water Services: No objection subject to compliance with conditions.

Roads, Streets & Traffic Department: The report notes the planning history of the site and the previous concerns raised. It is noted that the CDP, Section 16.10.16 relates to Mews Dwellings and the requirements in terms of laneway width for this type of development is a minimum of 4.8m or 5.5m where no verges or footpaths are provided. The existing lane ranges between 2.1m and 2.9m in width and provides vehicular access to the rear of a number of houses and commercial properties on Merrion Road. No car parking is proposed and the existing garage provides parking for the house. No parking provision is acceptable due to the good public transport links. No details of secure bike parking or refuse storage is provided. Fire tender access to the site is restricted. The report concludes that the development is unacceptable due to non-compliance with the CDP and with regard to the width of the laneway, the creation of a traffic hazard and the setting of a poor precedent. Refusal is recommended.

3.2.3. Prescribed Bodies

None.

3.2.4. Third Party Submissions

None.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

PA ref 4090/19: Permission was refused by DCC to retain and complete alterations to previous approved development (Reg. ref: 3546/17) for the construction of a detached garage and permission to change the use of the garage to a two bedroomed two storey mews house. The reason for refusal was as follows:

The proposed development is contrary to the Dublin City Development Plan 2016 – 2022, and in particular with Section 16.10.16 'Mews Dwellings', in

terms of width of the existing laneway. The proposed laneway is of a substandard width and the proposed use would result in pedestrian and vehicular conflict. It would set an undesirable precedent and would endanger the health or safety of persons occupying the structure by reason of traffic hazard. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

ABP ref PL29S.249412 (PA ref: 3546/17): Permission granted, following an appeal to ABP, for the construction of a pitched roof and rooflights with 1st floor area for storage on the site.

No. 1 Sydenham Road:

ABP ref ABP-306245-19 (PA ref: 4142/19): Permission granted, following an appeal to ABP, for a detached two storey mews to replace previous permission for a two car garage. DCC refused permission initially.

PA ref. 4481/17: DCC granted permission for a new detached two car garage with storage and attic space and the re-planning of the rear garden to provide four car parking spaces and six car parking spaces and an increase in private open space associated with the main house.

No. 5 Sydenham Road:

ABP ref PL29S.249412 (PA ref: 3697/05): Permission granted for a detached garage with storage in attic space.

5.0 Policy and Context

5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

The NPF includes a Chapter, No. 6 entitled ‘People, Homes and Communities’. It sets out that place is intrinsic to achieving good quality of life. A number of key policy objectives are noted as follows:

- National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.

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

National Planning Objective 13 provides that “in urban areas, planning and related standards, including, in particular, 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”.

5.2. **Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):**

- 5.2.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:
 - quality homes and neighbourhoods,
 - places where people actually want to live, to work and to raise families, and
 - places that work – and will continue to work - and not just for us, but for our children and for our children’s children.
- 5.2.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.
- 5.2.3. Section 5.6 of the guidelines suggest that there should be no upper limit on the number dwellings permitted that may be provided within any town or city centre site, subject to the following safeguards:
 - compliance with the policies and standards of public and private open space adopted by development plans;

- avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;
- good internal space standards of development;
- conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;
- recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and
- compliance with plot ratio and site coverage standards adopted in development plans.

5.2.4. Section 5.9 deals with Inner suburban / infill sites and notes that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the revitalising areas by utilising the capacity of existing social and physical infrastructure. Such development can be provided either by infill or by sub-division of dwellings.

5.3. **Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013**

In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S). The Manual seeks to address street design within urban areas (i.e. cities, towns and villages) and it sets out an integrated design approach.

5.4. **Development Plan**

5.4.1. The Dublin City Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. The site is zoned Z2 - Residential Conservation Area

where it is the stated objective of the zoning 'To protect and/or improve the amenities of residential conservation areas.

5.4.2. Chapter 5 of the Plan deals with Quality Housing and the following policies are considered relevant:

- **QH21:** To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.
- **QH22:** To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.

5.4.3. Chapter 16 of the CDP deals with Development Standards and section 16.10.2 deals with Residential Quality Standards for houses. This section deals with floor areas, aspect, natural light and ventilation, private open space and separation distances.

5.4.4. Section 16.10.16 specifically deals with Mews Dwellings and the following is relevant:

- (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 or 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.

5.5. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (&pNHA) (Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located approximately 1km to the east of the site.

5.6. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature of the site, 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

This is a first party appeal against the decision of the Planning Authority to refuse planning permission for the change of use of the permitted garage to a mews house. The issues raised are summarised as follows:

- The proposed mews development is a conversion of a previously approved detached garage and is modest in scale.

- The development is in general compliance with Clause 16.10.16 (of the CDP).
- The development will help with the housing shortage.
- The site is on a main public transport corridor, close to the Dart and major Bus Route on Merrion Road. Cycle spaces and bin storage space will be provided.
- An Bord Pleanála previously approved the Mews development in the adjacent rear garden.
- There is a previous mews development to the rear of No. 2 Sydenham Road which has a laneway width of less than 4.5m.

It is requested that the Board reverse the decision of Dublin City Council.

6.2. **Planning Authority Response**

None.

6.3. **Observations**

None.

7.0 **Assessment**

7.1.1. I have undertaken a site visit and have read the full file, as well as the history files for the site and adjacent properties. Having regard to the nature of the proposed development, and in particular the reason for refusal relating to the change of use of the garage to a mews dwelling, I suggest that it is appropriate for the Board to restrict its deliberations to the issues arising in the reason for refusal, and to whether or not the proposed development would result in pedestrian and vehicular conflict due to the substandard laneway proposed to serve the site, endangering public safety by reason of traffic hazard.

7.1.2. Having regard to national policy relating to the efficient use of serviced lands and to provide more compact urban development, the zoning objective and the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing, the planning history associated with the site and permitted development

in the immediate vicinity of the site, I am generally satisfied that the principle of the proposed mews development is acceptable.

1. Roads & Traffic
2. Other Issues
3. Appropriate Assessment

7.2. Roads & Traffic

7.2.1. The Board will note Dublin City Councils reason for refusal as follows:

Having regard to the provisions of the current Dublin City Development Plan (2016-22) including Section 16.10.16 which sets out standards for mews dwellings and Appendix 5.1 in relation to road and footpath standards, the access laneway to the proposed new dwelling is substandard in width and the proposed use would result in pedestrian and vehicular conflict which, in itself and taken cumulatively with the impact of other existing and potential uses along the rear lane and the laneway which provides access to it, would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the provisions of the current development plan, and to the proper planning and sustainable development of the area.

7.2.2. In the context of the City Development Plan, the proposed development, while acceptable in terms of the zoning objective afforded to the site, would fail in the specific requirements of the Plan for mews developments. Section 16.10.16 of the Plan deals with Mews Dwellings and in particular, I refer the Board to the specific requirements in terms of the width of potential mews laneways. The Plan requires that such laneways must have a minimum carriageway of 4.8 metres in width (5.5 metres where no verges or footpaths are provided).

7.2.3. In considering the proposed development, I would also note the Boards previous decision in relation to the adjacent site, whereby permission was granted for the construction of a mews dwelling on the existing laneway on the basis that it was justified in accordance with the NPF and Government Policy to ramp up delivery of housing from its current undersupply set out in Rebuilding Ireland – Action Plan for

Housing and Homelessness issued in July 2016. National policy supports denser residential development on public transport corridors within the built-up area of Dublin City and its suburbs. Should the Board be minded to grant permission in this instance, it may be considered that there is an issue relating to material contravention of the CDP. I will deal with this matter further below in Section 7.3.1.

- 7.2.4. While I acknowledge the submission of the PA, I would consider that given the small scale nature of the development, together with the existing use of the laneway by a number of property owners, the proposed development would not generate so significant a level of traffic as to give rise to a public safety issue. As such, and having regard to the national policy which seeks to achieve well-designed high quality and safe outcomes in order to achieve targeted growth and that protect the environment, and to ramp up the delivery of housing as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness, July 2016, I am satisfied that the proposed mews dwelling is justified.

7.3. Other Issues

7.3.1. Material Contravention

Section 7.2.3 of this report raised the issue of potential material contravention of the Dublin City Development Plan 2016-2022. Section 16.10.16 of the Development Plan deals with mews dwellings and details specific requirements for new mews lane widths. The Plan requires that such laneways must have a minimum carriageway of 4.8 metres in width (5.5 metres where no verges or footpaths are provided). The development as proposed will be accessed via an existing laneway which has a width of between 2.1m and 2.9m from its junction with the main road. Therefore, it may be considered that the development as proposed, materially contravenes the provisions of Section 16.10.16 of the Plan, which sets out standards for mews dwellings and Appendix 5.1 in relation to road and footpath standards.

The Board will note that the planning authority raised this concern in its decision to refuse planning permission. The PAs issue with the proposed development relates to the substandard nature of the existing laneway in terms of width and considers that the proposed use would result in pedestrian and vehicular conflict which, in itself and taken cumulatively with the impact of other existing and potential uses along the rear

lane and the laneway which provides access to it. In addition, the PA considers that the development would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the provisions of the current development plan, and to the proper planning and sustainable development of the area.

If it is determined that the proposed development materially contravenes the provisions of the City Development Plan, I would refer the Board to Section 37(2)(b) of the Planning and Development Act 2000, as amended. This section of the Act provides that the Board may only grant permission where it is considered that:

- i. The proposed development is of strategic or national importance,
- ii. There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- iii. Permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- iv. Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

In the context of the proposed development, I am satisfied that the Board can consider that the exemptions set out in Section 37(2)(b)(iii) are applicable in this instance. I am satisfied that the proposed development is acceptable in this regard.

7.3.1. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.4. Appropriate Assessment

The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (&pNHA) (Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located approximately 1km to the east of the site.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 Reasons and Considerations

Having regard to the Objectives of the National Planning Framework, and the zoning provisions of the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of pedestrian, cyclist and pedestrian safety and would not seriously injure the visual and residential amenities of adjoining properties and the amenity of future occupants.

While the Board acknowledges that the proposed development is contrary to Section 16.10.16(i) of the Dublin City Development Plan 2016-2022 which states that potential mews laneways must have a minimum carriageway of 4.8 metres in width, the development is considered to be justified in accordance with:

- (a) Government policy to ramp up delivery of housing from its current under-supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, and

(b) Objective 13 of the National Planning Framework, which supports denser residential development on public transport corridors within the built-up area of Dublin city and its suburbs, as is proposed in this case. The proposed development, would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details of 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. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

4. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

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

Reason: It is 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.

A. Considine

Planning Inspector

05th December 2020