



An
Bord
Pleanála

Inspector's Report ABP-309160-21.

Development	Conversion of single storey storage unit/garage to two storey habitable dwelling.
Location	Rear of 37 Hughes Road North, Walkinstown, Dublin 12.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2948/20.
Applicant(s)	Greg Flynn.
Type of Application	Permission.
Planning Authority Decision	Grant with Conditions.
Type of Appeal	Third Party
Appellant(s)	Helen McDermott.
Observer(s)	None.
Date of Site Inspection	01/04/2021.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The appeal site is located to the rear of No. 37 Hughes Road North in Drimnagh, approximately 5km to the south west of Dublin city centre. The site fronts onto a laneway which provides access to the rear of residential properties on Hughes Road North (to the south) and commercial / retail premises and residential properties which front onto Drimnagh Road (to the north). While the laneway mainly comprises domestic garages / stores and rear accesses, there are also a number of commercial garages on the lane. There are also some smaller mews style dwellings, similar to the current proposal erected on the laneway.
- 1.2. The site is occupied by a single storey garage which includes a standard roller garage door. The roof of the structure is metal and there is a side pedestrian access to the rear of No. 37 Hughes Road North. It would appear that the house has been sold separately to the shed, which would have once comprised part of the wider No. 37 Hughes Road North site.
- 1.3. The site has a stated area of 105m² and the existing building on the site has a stated floor area of 85m². The existing building on the site has an overall height of approximately 3.1m. This building is located approximately 22.2m from the rear wall of the house on the wider No. 37 Hughes Road North site. The subject site boundary is located approximately 20m from the rear wall of the house.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for conversion of existing single storey storage unit / garage to two storey habitable dwelling with pitched roof to match similar developments on adjacent properties. Development to comprise of two bedrooms and bathroom on first floor with living room, kitchen, bathroom and garage store / store on ground floor, all at the rear of 37 Hughes Road North, Walkinstown, Dublin 12.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the proposed development subject to 12 conditions.

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 of the site and wider area and the City Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The initial Planning Report concludes that further information is required in relation to the development in terms of ownership, proposed in-curtilage garage, site boundary, first floor windows, inadequate size for kitchen/living space and inadequate depth of rear garden area in terms of Section 16.10.16 Mews Dwellings of the City Development Plan.

Following the submission of a response to the FI request, the planning report required clarification with regard to projecting first floor windows and an inadequate response to the issue of the rear garden depth. Following the submission of the response to the clarification request, which amended the proposed development to provide for one bedroom instead of two and the replacement of the projecting first floor windows with high level windows to minimise overlooking, the final planning report concludes that proposed development is acceptable subject to compliance with conditions. The Planning Officer recommends that permission be granted for the proposed development, subject to 12 conditions.

This Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

3.2.2. Other Technical Reports

Drainage Division: No objection subject to compliance with conditions.

Road Planning Division: Notes that the mews lane complies with the CDP in terms of width but requires that the proposed in-curtilage car parking be redesigned to ensure adequate space for circulation between the walls and car. The report also notes that the red-line boundary differs between plans submitted. Further information is required.

Following the submission of the response to the FI and clarification requests, the division advises no objection subject to compliance with conditions.

3.2.3. **Prescribed Bodies**

None.

3.2.4. **Third Party Submissions**

There is 1 no. third party objection/submission noted on the planning authority file from the occupant of no. 37 Hughes Road North. The issues raised are summarised as follows:

- On purchasing the property, the applicant assured the objector that the garage to the rear would always be a work-station.
- The proposed two storey house will overlook rear bedrooms and back garden and will be only 6ft from outdoor dwelling on the site.
- Impact on light from the proposed development and overshadowing.
- Noise pollution.
- Impact of the development on objectors' son, who has EFD.
- Impact on privacy and overlooking of property.
- The applicant does not live at no. 37 Hughes Road North and does not appear to have an address for the property.

4.0 **Planning History**

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

PA ref: 3792/16: Permission sought for extension to the front of house, and first floor extension to rear.

PA ref: 1787/94: Permission granted for retention of light industrial use in approved structure at rear.

PA ref: 0806/97: Permission refused for 1st floor extension to industrial unit.

Adjacent Sites:

ABP ref ABP-303035-18 (PA ref: 3825/18): Permission granted following an appeal for the conversion of industrial building to provide for 2 no. two bedroom apartments, with elevational and internal changes including the addition of 6 no. rooflights, associated private open space, shared garage incorporating 2 no. car parking spaces, 4 no. bicycle parking spaces and a bin storage area, at the rear of 9, Hughes Road North, Walkinstown, Dublin 12.

PA ref: 3527/15: Permission granted at the rear of 25 Hughes Road North for the conversion of a one storey garage to a two storey one bedroom mews house.

5.0 Policy and Context

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

5.1.1. 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”.

5.1.2. 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. **Development Plan**

5.3.1. The Dublin City Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. The site is zoned Z1 - Residential where it is the stated objective of the zoning 'To protect, provide and improve residential amenities'.

5.3.2. 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.

5.3.3. 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.

5.3.4. 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 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.

5.4. 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 are located approximately 7.5km to the east of the site. The Glenasmole Valley SAC (&pNHA) (Site Code 001209) is located approximately 8km to the south.

The Grand Canal pNHA (Site Code 002104) is located 1km to the north of the site while the Dodder Valley pNHA lies 4km to the south. The North Dublin Bay pNHA, (Site Code 000206), is located approximately 7.5km to the north east of the site.

5.5. 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 third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The Board granted Leave to Appeal under ABP-308808-20 to Ms. McDermott, 39 Hughes Road North. The issues raised are summarised as follows:

- No objection to the PA was made as the site notice was positioned in the laneway, which is not considered to be in accordance with regulations.
- Covid-19 and Level 5 lockdown meant that Ms. McDermott was cocooning and did not leave her home.
- The proposed drawings indicate that the first floor of the proposed mews dwelling will be construed on the ground floor walls. The building has not been built within the boundaries of no. 37 Hughes Road North but has used the dividing wall between nos 37 and 39. No permission has been given to build on this wall.
- Issues raised in relation to the location of downpipes, gullies, manholes etc within the site which is impossible as the boundary wall is used for the mews.
- Flood risk impact to adjacent garden and property.

- Impact of development on daylight and sunlight in appellants garden, as well as overshadowing, and impacting on the development potential and value of adjacent property.
- The revised drawings, placing the living area at 1st floor gives rise to concern with regard to loss of privacy.

6.2. Applicant Response

The first party submitted a response to the third-party appeal. The submission is summarised as follows:

- As the applicant does not own No. 37 Hughes Road, he had no reason to put the site notice there.
- With regard to the Covid-19 reason for delay in objecting, it is submitted that this reason has been thrown out in the courts on a similar appeal.
- The entire unit has been in existence since 1994, was granted planning permission, and was constructed within the confines of the relevant boundaries. There has never been an issue with this in the past.
- The proposed development in no way reduces the size of the appellants garden as the original footprint of the building remains unaltered.
- All services will be located within the curtilage of the site and existing drainage connections will be utilised.
- There is no reason to imply a flood risk and there is no record of flooding in this area in the past 60 years.
- Minor overshadowing will occur but none will be caused to the main house, located 23.775m away and the proposed development will in no way impact on any future planning application on adjacent properties and will not impact on the value.
- Drawings have been revised to address the possibility of overlooking and privacy issues raised by the appellant to include:
 - The installation of privacy screening in front of windows to front and rear.

- Unit decreased in floor area to 1 bedroom unit.
- Size of both yard and garage increased as per planning requirements.

It is requested that the decision to grant is upheld.

6.3. Planning Authority Response

None.

6.4. Observations

None.

7.0 Assessment

Having undertaken a site visit and having regard to 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 and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development & Compliance with Development Plan & General Development Standards
2. Other Issues
3. Appropriate Assessment

7.1. Principle of the development & Compliance with Development Plan & General Development Standards

- 7.1.1. The Dublin City Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. The site is zoned Z1 - Residential where it is the stated objective of the zoning 'To protect, provide and improve residential amenities'. The proposed development seeks to convert an existing storage unit / garage to a habitable dwelling.

- 7.1.2. The Board will note that a number of iterations of the proposed building have been presented during the PAs assessment of the proposed development, with permission being granted for the development of a 1 bedroom, two storey house in accordance with the plans and particulars submitted to Dublin City Council on the 21st of October 2020. The layout of the house provides for an in-curtilage garage / store, bathroom and access to a covered yard and the rear yard at ground floor level, with a living room, bathroom and bedroom at first floor level. The proposed house will have a floor area of 62.5m² and a private open space area of 38.775m².
- 7.1.3. In response to the third-party appeal, and in an effort to address the requirements of condition 3 of the PAs decision to grant permission which required amendments to the first floor windows, the applicant has submitted proposals to provide a 1.8m high translucent Polycarbonate Screen to both first floor windows. In the context of this assessment, I am satisfied that the proposals presented to the Board are generally acceptable and appropriate to address the concerns raised in this regard.
- 7.1.4. Chapter 16 of the Dublin City Development Plan deals with Development Standards and Section 16.10.16 specifically deals with Mews Dwellings, which I consider the current proposal reasonably reflects. I also note that similar developments have been successfully implemented on this laneway. In the context of the requirements of Section 16.10.16, as detailed above in Section 5.4.4 of this report, I am generally satisfied that the proposed development adequately complies with the stated requirements of the City Development Plan. The proposed development provides for off-street car parking and the laneway onto which the proposed development will be constructed is of adequate width to accommodate the development. While I acknowledge that the distance between the opposing windows of the proposed development and the main house to the south is slightly below the minimum 22m recommended, I am generally satisfied that the proposed window treatment, as provided in the submission to the Board, will adequately protect the existing residential amenities of all existing properties fronting onto Hughes Road North.
- 7.1.5. 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 and permitted development in the immediate vicinity of the site, I am

generally satisfied that the principle of the proposed mews development is acceptable.

7.2. Other Issues

7.2.1. Site Notice

I note the comments made with regard to the location of the site notice and the timing of the application in the context of Covid-19. I am satisfied that the site notice was appropriately posted as required under the Planning and Development Regulations.

7.2.2. Site Boundary Issue

The Board will note that the pertinent issue arising in the third-party appeal relates to a disagreement on the boundary of the site, which is a civil matter. However, I would be satisfied that the provision of Section 34(13) of the Planning & Development Act, 2000 as amended, which states 'A person shall not be entitled solely by reason of a permission under this section to carry out any development' is sufficient to ensure that the civil issues is rectified prior to the commencement of development on the site.

I am further satisfied that the matters raised with regard to the location of downpipes, gullies, manholes etc, can be appropriately addressed by way of condition. The applicant has clearly indicated that it is not their intention to encroach on neighbouring property.

7.2.1. Impact on Residential Amenities

I have addressed matters above in relation to potential overlooking and impact on existing residential amenities. I am satisfied that the proposed development is acceptable in this regard.

With regard to the issue raised in relation to flood risk, I would be satisfied that the proposed development is unlikely to give rise to any significant impacts in this regard. The proposal is to change the use of an existing structure on the site, within an established and built-up area which enjoys a mix of uses. I am satisfied that the development is acceptable in terms of flood risk.

In terms of overshadowing, and the potential impact on the adjoining properties, given the orientation of the site, I note that overshadowing of the rear area of no. 35 to the west of the subject site in the morning. However, this area includes an existing garage / store building (which is the subject of a current application with Dublin City Council for redevelopment as a 3 bed house). Therefore, there is no impact on residential amenity arising. With regard to the appellants property, no. 39 to the east, the area adjacent to the existing garage / store building is current impacted. I am generally satisfied that the proposed development will not so significantly impact the residential amenities of adjacent properties by reason of overshadowing.

7.2.2. 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.

7.2.3. 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 are located approximately 7.5km to the east of the site. The Glenasmole Valley SAC (&pNHA) (Site Code 001209) is located approximately 8km to the south.

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.

It is further considered that the development is 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, as amended by the plans and particulars submitted to An Bord Pleanála on the 3rd day of February 2021 in response to the third-party appeal, 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. Water supply and drainage arrangements, including the 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.

5. Site development and building works shall be carried out only between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

6. 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
02nd April 2021