



An
Bord
Pleanála

Inspector's Report ABP-309675-21.

Development	2 storey mews house.
Location	Rear of no. 68 Castle Avenue, Clontarf.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3903/20.
Applicant(s)	Thomas and Susan Naughton.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellants	Maurice Owens and Others.
Observers	None.
Date of Site Inspection	9 th May 2021.
Inspector	Philip Davis.

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1.0 Introduction

This appeal is by a number of residents of a small lane against the decision of the planning authority to grant permission for a 2 storey dwelling to the rear of a house running parallel to that lane in Clontarf. The grounds of appeal relate mostly to amenity and access issues.

2.0 Site Location and Description

The appeal site, no. 68 Castle Avenue, is a dwelling with rear garden on the east side of Castle Avenue in Clontarf, nearly opposite the Id ograveyard and derelict 17th Century St. John the Baptist church, which is next to the Clontarf Castle Hotel. The latter is on the site of the former Clontarf Castle and demesne. The main house is the northern half of a semi-detached dormer style bungalow of an Arts and Crafts influenced style typical of the 1920's. The total site, with its long rear garden, is given as 678 m² in extent. To the south is a similar house, to the north is a gated laneway extending parallel to the side of the house. This lane appears to be a private right of way with rights of access shared among the adjoining property owners.

There are five small dwellings dating from the mid 19th Century and later along this lane, facing south and west. These are one and two structures typical of demesne gatehouses and associated residential developments from the period. The lane is indicated on older OS plans as the entrance to the Elm View Demesne – this house is now demolished. Older plans indicate that this lane may have been associated with the medieval village that surrounded Clontarf Castle prior to the realignment of the roads around the house and castle in the early 19th Century when the demesne was laid out.

The wider area is characterised by a mix of detached and semi-detached houses, mostly dating from the later 19th to early 20th Centuries, with some more modern infill developments. There is a single bus service for Castle Avenue – the 130 service. The site is within 1 km walk south from Killester Dart Station, Killester shops, and the shopping area at Clontarf Sheds to the east.

3.0 Proposed Development

The proposed development is described as the construction of a new two storey mews house to the rear of no. 68 including the construction of a new vehicular entrance and all associated site works. The proposed dwelling has a floor space of 128 m².

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission subject to 11 no. standard conditions.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- Notes the Z1 zoning and lack of relevant planning history on the site.
- Notes relevant policy including 16.10.2 on residential quality standards and 16.10.8 on backland development.
- Notes a number of objections.
- It is concluded that the site has adequate dimensions for a dwelling without impacting on the amenities of adjoining neighbours and that the design is architecturally acceptable.
- It is considered that the applicant has demonstrated that they have a right of access along the lane, and this is considered acceptable.
- It is considered that no AA issues arise.
- Permission recommended.

4.2.2. Other Technical Reports

Drainage: No objection subject to conditions and clarification of connection details.

Transportation planning. The application is considered acceptable subject to conditions.

4.3. **Prescribed Bodies**

None on file.

4.4. **Third Party Observations**

Six observations are on file, all objecting for reasons relating to policy, traffic and access, and amenity.

5.0 **Planning History**

There are no records of applications or appeals for the site. A number of recent decisions are referred to on file, including **2328/05**, a refusal of permission for a bungalow at no.72 Castle Avenue; **5453/05**, and permission granted for a single storey extension at 72 Castle Avenue.

6.0 **Policy Context**

6.1. **Development Plan**

The site is in an area zoned Z1, for the protection of residential amenities in the Dublin City Development Plan 2016-2022. There are a number of recorded ancient monuments across the road at the former graveyard of St. John the Baptist. The gateway to the lane is listed on the NIAH but does not appear to be a protected structure.

6.2. **EIAR**

Having regard to the nature of the proposed development and the absence of any sensitive receptors in the immediate vicinity, the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded and a screening determination is not required.

6.3. Natural Heritage Designations

There are a number of EU designated habitats in Dublin Bay. The closest, 600 metres directly south of the site, is the South Dublin Bay and River Tolka SPA, Site code 004024, designated for a variety of littoral and coastal habitats and wildfowl.

7.0 The Appeal

7.1. Grounds of Appeal

The decision has been appealed by the residents of 70, 70A, 72, 74 and 76 Castle Avenue (one appeal). The key points of their appeal are as follows:

- It is argued that the proposed development will seriously impact on the residential amenities of the existing residents.
- The historic background of the laneway is outlined. No. 70 was the original gate lodge, with others from later dates. All the residents share access rights over the private lane.
- It is argued that the application is contrary to the objectives of the Z1 zoning in that insufficient weight was given to the amenities of the community around the laneway and it would diminish their use and enjoyment of their houses and devalue their property.
- It is argued with regard to section 16.10.8 of the CDP with regard to backland development, the proposed development will cause a significant loss of amenity. It is argued that the proposed development is piecemeal backland development, and not a 'mews' house as considered by the planning authority.
- It is argued that the dwelling cannot be considered a mews development, but if so, it is noted that the lane is narrower than the minimum requirement set out in 16.10.16(i) of the plan with regard to the width of the lane.
- It is argued in some detail that the access is hazardous and it is inappropriate to permit further use of the lane. It is also argued that the lane is inadequate for emergency vehicle access.

- It is argued that the proposed development is not consistent with policy on movement and transport (Chapter 8), Sustainable communities and neighbourhoods (Chapter 12) and the Development Standards (Chapter 16) of the CDP. It is also argued that it is not consistent with DMURS.
- A number of previous refusals are described which, it is submitted are relevant precedents – they include **ABP-307225-20** (52 Copeland Grove, Clontarf); and **ABP-209235-21** (36 Oulton Road, Clontarf).

7.2. Applicant Response

There is no response from the applicant on file.

7.3. Planning Authority Response

The planning authority did not respond to the grounds of appeal.

7.4. Observations

None

8.0 Assessment

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following general headings:

- Principle of development
- Pattern of development
- Amenities
- Traffic and access
- Conservation issues
- Other planning issues
- Appropriate assessment

8.1. Principle of development

The appeal site is within an established inner suburb and in an area zoned Z1 for the protection of residential amenities in the current CDP. National and regional policy favours sustainable densification of development in such areas. The development plan states that garden and infill developments such as this are generally viewed as permissible in Z1 areas subject to the protection of local amenities. Section 16.10.8 states that:

Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists.

Backland development is generally defined as development of land that lies to the rear of an existing property or building line. The development of individual backland sites can conflict with the established pattern and character of development in an area. Backland development can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. By blocking access, it can constitute piecemeal development and inhibit the development of a larger backland area. Applications for backland development will be considered on their own merits.

I would therefore conclude that the proposed development is of a type that is generally acceptable subject to objectives to protect amenities and to avoid piecemeal developments and those that conflict with the established pattern and character of an area.

The appellant quotes a number of refusals in the area for similar developments – there are few directly comparable examples of appeals in the vicinity, but I note that a number of back garden and mews type developments have been granted over many years in the Clontarf area, but there is no clear pattern of grants or refusals – this appeal, as with all similar such developments, should be considered on its own merits.

8.2. Pattern of development

The appeal site is close to what was a medieval manor house with an associated village up to the early 19th Century, when the main house (now hotel) at Clontarf

Castle was built and the demesne on the east side of Castle Avenue extended, forming the current pattern of roads in the area. The suburb of Clontarf developed initially as small demesnes and larger houses, with housing estates following by the late 19th and early 20th Century. The site is located within what was apparently a small demesne belonging to a now vanished house. The adjoining lane appears to have been the main entry to the demesne, with a gatehouse, with the other dwellings along here having been added over the years, although most seem to date from around the mid 19th Century. The oldest OS maps show that the lane may predate the demesne and so was possibly associated with the medieval village of Clontarf that surrounded the manor house and the churchyard of St. John the Baptist.

The area is characterised by a mix of housing types, from the mid 19th Century single storey gatehouse to later 1, 2 and 3 storey houses built along this section of Castle Avenue and Seafield Avenue. There is no clear pattern of architecture or scale, but as the area has matured it has its own quite distinct character.

The appellants have argued that the house is not a 'mews' development as described on the site documentation and represents piecemeal and inappropriate development. While I sympathise with their concerns at what is an attractive and unusual private laneway development, there has been a clear pattern over many years of incremental development along this lane, and whatever descriptive term you would use for the proposed development, it is very much in line with the historic pattern of small developments on lanes such as this.

The design of the proposed dwelling is contemporary in appearance and while this sets it off against the older dwellings in the area, I would conclude that it is an appropriate scale and design for this type of context.

I would therefore conclude that the development of this site for a dwelling of this scale and design is consistent with the pattern of development in the area and the character of this part of Clontarf.

8.3. Amenities

The proposed dwelling is at the end of a substantial rear garden and the separation distance between it and the main house is in accordance with guidelines set out in

the development plan. The internal layout and provision of private space is also in line with general guidance and having regard to the overall design and orientation of the proposed dwelling, I would conclude that it would have a satisfactory level of amenity and would not interfere with the amenities of the main house.

The residents of the adjoining laneway have argued that the house would interfere with their amenities, but having regard to the height of the proposed house and the separation distance, I do not consider that there would be any degree of overlooking of private internal or external spaces in those houses, and there would not be significant overshadowing or loss of light. While the proposed dwelling is to the south of the nearest of the houses on the lane, its height would not be sufficient to cast a shadow over any living area for a significant amount of time.

8.4. Traffic and access

The proposed development is accessed via the private lane. As this is long established a private access, I do not consider that the requirements of DMURS apply, and while I note the policy requirement in the Development Plan for a minimal width of lane for mews developments, as this is not a public road I do not consider that this applies, except outside the gates at the entrance. The issue of rights of access is a civil issue between the parties – I am satisfied from the information on file that the applicant has sufficient interest to apply for permission, S.34(13) of the Act applies if there are any legal issues with the use of the lane.

The lane is narrow, but this is clearly not a problem having regard to the low level of usage. The entrance is sufficient for existing traffic with reasonable sight lines in both directions and I do not consider that the minor additional traffic generated by a single dwelling would create any congestion or hazard. While the junction with Castle Avenue is not ideal, this is just one of numerous smaller entrances onto this road, both for individual dwellings and for small backland developments in the area. The planning authority did not consider that it represented a hazard, and I would concur with this view.

8.5. Conservation issues

The site is not a protected structure or within a zone of archaeological issue, but the gate for the entrance is listed on the NIAH as follows:

Description:

Entrance gates, erected c. 1860, having double-leaf cast-iron vehicular gate flanked by matching pedestrian gates, with square-plan cut granite piers having carved lintels, cornices and stepped caps over pedestrian openings. Rendered curved flanking walls with cut granite plinth and capping, terminating in matching square-plan cut granite piers with carved cornices and having cut granite wheel-guards. Single-storey former gate lodge to interior of site.

Appraisal:

This entrance was associated with the big house known as yew Park (earlier Elm View) and is an eye-catching reminder of the now demolished house. It forms an interesting feature on Castle Avenue and is part of a notable group with the altered gate lodge and the former workers' houses to the east. The stone carving shows considerable skilled artisanship, and the arrangement is well designed and executed.

The adjoining dwellings are not protected structures and the proposed dwelling would not be visible from the recorded ancient monuments in and around the churchyard opposite the site, or from the nearby hotel, part of which is an early 19th century neo gothic house, with possibly some earlier material from a tower house and manor on the site. The side boundary wall of the site is probably 20th Century and does not appear to include any historic fabric.

Due to the proximity to the medieval settlement and the church, the Board may wish to consider an archaeological monitoring condition for the works. Apart from this, I do not consider that there are any conservation issues raised in the appeal.

8.6. Other planning issues

The area is fully served with a public water supply and foul sewer and there are no indications from the file documentation that there would be an issue with Irish Water granting a connection.

There are no indications on file that the site is in or close to a flood area.

The proposed development is subject to a standard S.48 development contribution and is exempt from the requirements of Part V.

I do not consider that there are any other planning issues raised in this appeal.

8.7. Appropriate Assessment

There are no EU designated habitats in the immediate vicinity of the site. It lies approximately 600 metres north of the closest Natura 2000 site in Dublin Bay. It is possible that surface water drains directly to the bay, to the South Dublin Bay and River Tolka Estuary SPA and SAC, side codes 004024 and 000210. The site is fully served by the public foul sewer and water system, and the proposed works would not substantively increase drainage or run-off, so there are no pathways for pollution or any other possible direct or indirect impact on the conservation interests of those designated sites.

I therefore consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 004024 or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

9.0 Recommendation

I recommend that the proposed dwelling be granted permission for the reasons and considerations set out below, subject to the conditions in section 11 below.

10.0 Reasons and Considerations

Having regard to the Z1 residential objective for the site in the Dublin City Development Plan 2016 – 2022, the existing pattern of development in the area, and the nature, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or property in the vicinity or give rise to a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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

Reason: In the interest of clarity.

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

Reason: In the interest of visual amenity.

3. No more than two car parking spaces shall be provided within the curtilage. Appropriate protected cycle parking shall be provided within the curtilage.

Reason: In the interest of orderly development.

4. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located

underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

5. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

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

Reason: In the interest of orderly development.

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

Reason: In the interest of residential amenity.

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

Reason: In the interest of orderly development.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

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

9. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

10. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

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

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

Philip Davis
Planning Inspector

10th May 2021