



An
Bord
Pleanála

Inspector's Report ABP-310031-21

Development	Demolition of existing garage (vehicular access maintained) and erection of a new 88 sq.m. single storey detached mews dwelling and associated works.
Location	Rear of No. 1 Belmont Villas, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2143/21
Applicant(s)	James & Mary Kelly
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	James & Mary Kelly
Observer(s)	None
Date of Site Inspection	18 th June 2021
Inspector	Donal Donnelly

1.0 Site Location and Description

- 1.1. The appeal site includes all of No. 1 Belmont Villas and the proposed development is situated to the rear of this property. Belmont Villas comprises a cul de sac off Belmont Avenue in Donnybrook approximately 3km south-east of Dublin city centre. The north-eastern side of Belmont Villas contains a row of 10 no. semi-detached 2-storey dwellings and St. Mary's Tennis Club is opposite.
- 1.2. There is a gated laneway to the north-west of No. 1 Belmont Avenue that provides vehicular access to rear of No's. 1-9 Belmont Villas and No's. 22 to 36 Belmont Avenue. There are a number of original garages to the rear of these properties and others which appear to be in ancillary residential use. The gate was open at the time of my site visit.
- 1.3. The appeal site is the longest property on Belmont Villas with a total depth of approximately 46 sq.m. The width of the site is 8.22m and the stated area is 384 sq.m. The garden depth is approximately 28 sq.m. and there is detached garage with existing access to the rear laneway. There is also a gated access on the side boundary. A block wall continues along the remainder of the south-western and rear site boundary of the site.

2.0 Proposed Development

- 2.1. Planning permission is sought for the following:
 - Demolition of existing garage (existing vehicular access maintained),
 - Subdivision of site and construction of a new 88 sq.m. single storey detached mews dwelling comprising the following:
 - 2 no. bedrooms, study and separate kitchen and dining/ living area,
 - 17.1 sq.m courtyard for parking at location of existing garage,
 - Private open space of 34 sq.m. (residual private open space of 60 sq.m. for existing house),
 - Cross cable design with maximum gable height of 5.375m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council issued notification of decision to refuse permission for the proposed development for a single reason relating to the failure of the proposal to meet minimum Development Plan requirements for mews development, (private open space provision and the substandard access laneway width).
- 3.1.2. It is considered that the proposal would alter the existing use from a rear access laneway to a mews laneway, resulting in increased pedestrian, cyclist and vehicle use and conflict. It is also stated that the proposal would fail to provide private open space in accordance with the standards set out in the Development Plan.

3.2. Planning Authority Reports

- 3.2.1. The recommendation to refuse permission in the Planner's Report reflects the decision of the Planning Authority. The main points raised under the assessment of the proposal are as follows:
- Overall proposal is considered to provide for an acceptable quality of design and finish.
 - Private open space measured to be 31.75 sq.m. falls short of the minimum requirement of 40 sq.m.
 - There are no mews dwellings to the rear of any other house along Belmont Villas. House to rear of No. 38 Belmont Avenue has a frontage onto Belmont Villas.
 - Two windows with obscured glass block proposed to face the laneway would articulate the façade.
 - There are concerns in relation to the failure to comply with minimum standards in relation to access and egress for an independent building – laneway would appear to be c. 3m wide at its entrance and remains this width for much of its length.

- Flexibility for reduced lane width in Development Plan does not apply where the access is not of sufficient width to comply with safety and engineering requirements (pedestrian and emergency access).
- Informal parking opposite site to rear would reduce the area available for turning and manoeuvring into the site.
- Area with two bins shown at corner of site – unlikely that refuse trucks would access this area due to narrow width of laneway.
- Report from Transportation Department recommends refusal for reasons relating to laneway width, change of use of the laneway, pedestrian/ cyclist/ vehicular conflict, and precedent.
- Proposal would not be in keeping with Development Plan provisions, including standards relating to laneway width for mews dwellings or with the proper planning and sustainable development of the area.

3.3. Third Party Observations

- 3.3.1. Observations were received on the planning application on a range of matters including those relating to loss of amenity to surrounding gardens, over-intensive use of the site, absence of footpath, laneway width, access difficulty, lack of screening for refuse storage, hazard for pedestrians, impact on adjoining ACA and protected structures, intensification of use and reduction of green space.

4.0 Planning History

Dublin City Council Reg. Ref: 0317/99

- 4.1. Permission refused for a 2-storey dormer mews to the rear of the existing house for reasons relating to the access laneway, separation distance with the existing dwelling and private open space provision.

Dublin City Council Reg. Ref: 1582/91

- 4.2. Permission was sought for the installation of a gate at the entrance to the laneway to the rear of No's. 22 to 38 Belmont Avenue and No's. 1 to 9 Belmont Villas. Additional information sought from the applicant not received.

5.0 Policy Context

5.1. Dublin City Development Plan, 2016-2022

- 5.1.1. The appeal site is zoned “Z1” where the objective is “to protect, provide and improve residential amenities.”
- 5.1.2. Development standards for residential accommodation are set out in Section 16.10 of the Development Plan. Mews dwelling standards are included in Section 16.10.16.
- 5.1.3. There is an Architectural Conservation Area to the north-east of the appeal site.
- 5.1.4. Section 5 includes policies and objectives for quality housing.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first party appeal against the Council’s decision was submitted on behalf of the applicant. The grounds of appeal and main points raised in this submission are summarised as follows:
 - Proposal can be considered in its own right as an infill development similar to the previously permitted development at No. 1A Belmont Villas.
 - Amended drawing submitted with appeal shows proposed dwelling with pedestrian access directly from Belmont Villas – Council’s concerns about increased pedestrian, cyclist and vehicle use and conflict would not arise.
 - Residential car parking already exists on site to the rear and thus its associated vehicular movements are already established.
 - Applicant invites a condition removing the car parking space rather than issuing a refusal – dwelling would still be consistent with current sustainable policy in an urban location well served by services and transport, and private open space would be enhanced by courtyard.

- Amended plan now shows provision of 41 sq.m. of private open space for proposed dwelling and 54 sq.m. for existing house with two double and a single bedroom.
- Sustainable Residential Development in Urban Areas guidance document establishes an overall goal of encouraging higher residential densities in existing built-up areas.
- Section 16.2.2.2 of Development Plan states that *“it is particularly important that proposed development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.”*
- Single storey proposal within an oversized site will be a sensitive intervention in terms of scale, massing and form.
- Appropriate palette of materials (stone, brick and slate) is cognisant of surrounding buildings and will improve visual amenity of the site.
- Application seeks to create a new, smaller, manageable house with appropriate living and accessibility needs for the applicants who are pensioners. Proposal will allow applicants to stay within the existing community and a much-needed family dwelling will be freed up.
- Historic lack of variety within building stock has traditionally been a barrier to older people being able to downsize and stay in their community.
- Laneway can remain a rear access rather than a mews laneway and can benefit from some passive surveillance and deterrence of anti-social behaviour.

7.0 Assessment

7.1. I consider that the key issues in determining this appeal are as follows:

- Development principle;
- Access and parking;
- Impact on residential amenity;
- Visual impact;

- Appropriate Assessment.

7.2. Development Principle

- 7.2.1. The appeal site is zoned “Z1” where the objective is “*to protect, provide and improve residential amenities.*” The construction of a mews or infill type dwelling within the rear garden of an existing property would be acceptable in principle subject to an assessment of the impact of the proposal on residential amenity and compliance with other relevant Development Plan policies and objectives.

7.3. Access and parking

- 7.3.1. The reason for refusal refers to the standards for mews dwellings set out in Section 16.10.16 of the Dublin City Development Plan, 2016-2022 in relation to mews lane width and private open space provision. It is stated in the Development Plan that potential mews laneways must have a minimum carriageway width of 4.8m (5.5m where no verges or footpaths are provided), and all mews lanes will be considered as shared surfaces. The Planning Authority consider that the proposal would alter the existing use from a rear access laneway to a mews laneway, resulting in increased pedestrian, cyclist and vehicle use and conflict.
- 7.3.2. The site layout plan shows that the laneway is approximately 3.5m at the entrance off Belmont Villas, widening out to 4.445m at the northern end of the appeal site side boundary. To the north of the site, the laneway width is approximately 9m and the northern side of the laneway at this location is used for informal parking. There are garages serving a total of approximately 19 dwellings on Belmont Avenue and Belmont Villas.
- 7.3.3. The applicant has submitted revised proposals with the appeal which show the provision of pedestrian access along the north-western side of the main dwelling at No. 1 Belmont Villas. It is submitted that this access would eliminate the concerns of the Planning Authority regarding pedestrian, cyclist and vehicle use and conflict. The applicant also invites the Board to condition the removal of the car parking space rather than issuing a refusal in this case.
- 7.3.4. From the outset, I consider that the benefit of providing an additional dwelling in an urban location outweighs matters relating to the accommodation of private motor

vehicles. Notwithstanding this, vehicular access can be provided to the new dwelling and there is on-street parking provision for the main dwelling on Belmont Villas. I do not accept that issues of pedestrian/ cyclist/ vehicular conflict will arise with the addition of a single dwelling onto a laneway with low levels of usage and activity. An existing garage will be replaced with courtyard parking and therefore no increase in car access is proposed. Furthermore, I consider that minimum laneway widths for mews development set out in the Development Plan would apply to public roads when this is a private laneway, albeit with well-established vehicular access.

- 7.3.5. In my opinion, there are amenity aspects of the applicant's amended proposal submitted with the appeal that represent an improvement of the original proposal. This is discussed further below. In terms of access, however, I consider that the proposed dwelling would be better served by a pedestrian entrance/ egress onto the laneway to the side rather than from Belmont Villas to the front. A side pedestrian gateway would allow easier access for bins and bicycles and would provide for a clearer subdivision of the properties. Should the Board be minded to grant permission for the proposed development, I recommend the attachment of a condition to facilitate access from this location.
- 7.3.6. The issue of laneway ownership and rights of access is a civil matter, and I am satisfied from the information on file that the applicant has sufficient interest to apply for permission. Section 34(13) of the Planning and Development Act 2000, (as amended) applies if there are any legal issues with the use of the lane.

7.4. Impact on residential amenity

- 7.4.1. The amended proposal submitted with the appeal also increases the provision of private open space to serve the proposed development. The Council's reason for refusal cited the failure of the original proposal to provide private open space in accordance with Development Plan standards relating to mews dwellings. In this regard, it is stated in the Development Plan that the depth of private open space for the full width of the site will not generally be less than 7.5 m unless it is demonstrably impractical to achieve and shall not be obstructed by off-street parking. Where the 7.5 m standard is provided, the 10 sq.m of private open space per bedspace standard may be relaxed.

- 7.4.2. It was measured that the original proposal provided 31.75 sq.m. of private open space. The amended proposal now provides 41 sq.m. for the proposed dwelling (four bedspaces), and there is a residual of 54 sq.m. for the main dwelling, which has two double bedrooms and a single bedroom. I consider this to be acceptable. It should also be noted that the private amenity space for the proposed dwelling will have a southern aspect and there is potential for future residents who may be non-car owners to utilise the courtyard as amenity space.
- 7.4.3. I do not consider that the single storey nature of the proposed dwelling will give rise to adverse impacts on surrounding residential amenity. Any shadows cast by the proposed development will mainly be across the laneway to the north.

7.5. **Visual Impact**

- 7.5.1. The laneway in this case is aligned mostly with rear accesses and garages to residential properties. There is no architectural merit that may be found in a historic mews lane and little in the way of activity.
- 7.5.2. The proposed building introduces an appropriate design and an improved aesthetic over the existing block boundary wall addressing the laneway. I agree with the applicant that the proposed development will help to improve passive surveillance and security on the laneway.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise.

8.0 **Recommendation**

- 8.1. It is considered that the proposed development should be granted for the reasons and considerations hereunder and subject to the conditions below.

9.0 Reasons and Considerations

Having regard to the zoning objective for the site and pattern of development in the area, together with the design, scale and layout, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity, would provide for a satisfactory standard of accommodation for future residents, and would be acceptable in terms of pedestrian and cyclist safety and convenience. 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. The proposed development shall be amended as follows:
 - (a) The layout of the proposed dwelling and the provision of open space shall be in accordance with the amended proposals submitted to An Bord Pleanála on 23rd April 2021.
 - (b) Pedestrian access to the private open space shall be directly from the existing laneway to the side. The proposed pedestrian access to the side of the main dwelling from Belmont Villas is not permitted.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity.

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

Reason: In the interest of visual amenity.

4. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. This residential space shall not be sub-let or utilised for any commercial purpose.

Reason: In the interests of residential amenity.

5. 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.

6. 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.

7. 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.

Donal Donnelly
Senior Planning Inspector

21st June 2021