



An  
Bord  
Pleanála

## Inspector's Report ABP310134-21

---

<b>Development</b>	Erect a mews house
<b>Location</b>	Rear of 4 and 4A Proby Square, Blackrock, County Dublin
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D21A/0136
<b>Applicant(s)</b>	Daniel Hughes/Malindi Demery
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Kieran & Ros Geraghty & others Joe Meighan.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	1 <sup>st</sup> August 2021
<b>Inspector</b>	Hugh Mannion

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	3
4.0 Planning History.....	4
5.0 Policy and Context.....	4
5.1. Development Plan.....	4
5.2. Natural Heritage Designations .....	6
5.3. EIA Screening .....	6
6.0 The Appeal .....	7
6.1. Grounds of Appeal .....	7
6.2. Applicant Response .....	7
6.3. Planning Authority Response .....	8
6.4. Observations .....	8
7.0 Assessment.....	8
8.0 Recommendation.....	10
9.0 Reasons and Considerations.....	11
10.0 Conditions .....	11

## 1.0 Site Location and Description

1.1. The application site has a stated area of 0.0316ha and comprises a vacant parcel of land off a laneway to the rear of Proby Square (referred to in the application as Proby Square mews) with a junction with Carysfort Avenue, Blackrock, County Dublin. The site comprises an area to the rear of 4 and 4A Proby Square, has an undefined boundary with the laneway and is in use as informal car parking. Two mews houses adjoin the site further along the lane to the east and thereafter the gravelled surface ends. To the west (the Carysfort Avenue side) of the site there are a further two houses which have pedestrian, but not vehicular access to the lane, and on the corner of the lane and Carysfort Avenue is another building which has a gated access to Carysfort Avenue.

## 2.0 Proposed Development

2.1. The proposed development comprises

- Excavation and lowering site levels.
- Erect a 3 bed mews houses.
- Erect boundary walls to the rear and to the side with 5 Proby Square Mews,
- Construct a parking area and turning circle
- Lay foul and surface water services in the laneway.

2.2. Proby Lane Mews, Carysfort Avenue, Blackrock, County Dublin.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant with conditions.

### 3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report recommended a grant of planning permission as set out in the manager's order.

### 3.2.2. Other Technical Reports

**Drainage Division** reported no objections subject to compliance condition.

**Transport Planning Section** reported no objection subject to condition relating to upgrade of the access laneway.

**Irish Water** reported no objection.

## 4.0 Planning History

4.1. PL06D.244799 permission granted permission for a house at 4 and 4A Proby Square. This house was constructed.

4.2. PL06D.236876 permission refused for 3 two-bed terraced houses at 4 and 4A Proby Square.

## 5.0 Policy and Context

### 5.1. Development Plan

The site is zoned A 'To protect and or improve residential amenity' in the Dun Laoghaire Rathdown County Development Plan 2016 to 2022.

#### **Section 8.2.3.4(x) Mews Lane Development**

The principle of mews development will generally be acceptable when located on a lane that:

- Is already developed to such an extent that further development would have to be regarded as infill.
- Is already adequately serviced and surfaced from the site to the public road, with a suitable underlying base to cater for the expected traffic volumes.
- Has a legally acceptable agreement between owners or interested parties who intend to bring the laneway to standards and conditions - particularly in terms of services, road surfacing and public lighting - suitable to be taken-in-charge by the

Council. The onus will be on the applicant(s) to demonstrate that they have a consensus of owners or interested parties.

- Where the Council is likely to be able to provide services and where owners can be levied to allow the Council to service the sites.
- Has been identified as being suitable for such development on the County Development Plan Maps or within a Local Area Plan. The principle of mews development on a particular laneway will NOT generally be accepted where:
  - The length of all or most of the adjoining rear gardens on the side of the lane concerned is less than 25 metres<sup>2</sup> or
  - Where, particularly in a commercial area, the lane is likely to be required by the frontage buildings for access or the area adjoining the lane is required for expansion. Where the Planning Authority accepts the principle of residential development on a particular laneway, the following standards will generally apply:
    - Development will be confined to single units in one or two storeys of modest size and the separation distance between the rear façade of the existing main structure (onto the front road) and the rear mews structure should normally be a minimum of 20 metres and not less than 15 metres, or not less than 22 metres where first floor windows of habitable rooms directly face each other.
    - Setting back of dwellings and boundary walls may be required dependant on existing building lines, lane width, character and parking/access.
    - Dwellings and boundary walls may be required to reflect the scale, height, materials and finish of existing walls and buildings, particularly where old coach houses and two storey structures are involved.
    - All parking provision in mews laneways should be in off-street garages, integral garages (car ports), forecourts or courtyards, and conditions to 'de-exempt' garage conversions will normally be attached. At least one off-street parking space per dwelling will generally be required. Where two spaces can be reasonably accommodated these should be provided. Part set-backs of frontage for on-street parallel parking may be considered depending on lane width and structure types.

- Each dwelling shall generally have a private open space area of not less than circa 48 sq.m. exclusive of car parking area. A financial contribution in lieu of public open space provision may be required.
- Where dwellings are permitted on both sides of a lane, habitable room windows must be set out to minimise direct overlooking of each other where less than 9 metres apart.
- Vehicular entrance widths shall be a minimum but sufficient to provide for proper vehicular turning movements allowing for laneway width and for pedestrian visibility. Minimum lane width requirements are
  - Up to 6 dwellings: Adequate vehicular access of a lane width of circa 3.7 metres must be provided to the proposed dwellings - 3.1m at pinch points – to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.
  - Up to 20 dwellings: Width of 4.8 metres subject to a maximum length of 300 metres. Short lengths of narrow width may be acceptable where there will be no frontage access to those lengths. All mews laneways will be considered to be shared surfaces and footpaths need not necessarily be provided. If external street/security lighting is warranted, only a minimal level and wall-mounted type(s) may need to be provided. Opportunities should be undertaken to improve permeability and connectivity to and from the development as part of the Development Management process. Reduced standards from the above may be acceptable, particularly in cases of conversion of existing two storey structures in sound condition and of particular architectural and/or townscape value. Applications should clearly state the requirements and method statement for bin storage and collection, car parking, access and similar details

## 5.2. **Natural Heritage Designations**

Not relevant

## 5.3. **EIA Screening**

- 5.4. Having regard to the nature and scale of the proposed development, its location in a built-up area where potable and wastewater services are available, I conclude that

there are no potential likely significant impacts on the environment and that submission of an EIAR and carrying out of an EIA is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- The separation distance from the proposed development to the rear of 4 Proby Square is only 16.5m which contravenes the advice set out at section 8.2.3.4.(x) of the Development Plan that the minimum required separation distance is 22m.
- The floor area is underestimated in the application at 183m<sup>2</sup>, in fact it is 234m<sup>2</sup>.
- The amount of private open space is miscalculated by the application. The open space is inadequate to meet the needs of family life.
- The proposed development will be overbearing when viewed from adjoining property and overlook adjoining property (particularly 4 and 5 Proby Square).
- The applicant is unable to build the boundary wall and the application requires works outside the application site.
- There is a long history of planning applications on site and in the wider area.
- The proposed development contravenes the zoning objective for the site - Objective A 'to protect and/or improve residential amenity'.
- The planning authority did not properly consider all aspects of the application.
- The access lane is inadequate. The 'turning area' at the end gives rise to disturbance to adjoining houses.
- Construction traffic will endanger public safety.

### **6.2. Applicant Response**

- The application site already benefits from a grant of planning permission (PL06D.244799) whose lifetime has been extended. The present application

maintains the footprint of that application but amends the design to better suit the family circumstances of the applicants.

- The site is zoned for residential development, it is the policy of the planning authority to increase density where appropriate and the lane has already been developed for mews houses.
- The proposed development meets the standards set out in Section 8.2.3.4(x) of the Development Plan. The proposed development will not overlook adjoining property. The appropriate standard of 48m<sup>2</sup> of private open space is achieved. The floor area is calculated correctly.
- The boundary treatment works will not impact on adjoining landholdings.
- The proposed single house in this application does not have the same impacts as two houses applied for under reference D13A/0213 referred to by the appellants.
- The proposed height is lower than existing buildings on the mews lane.

### **6.3. Planning Authority Response**

- The appeals raise no new issue that required comment.

### **6.4. Observations**

- None

## **7.0 Assessment**

### **7.1. Principle of development.**

7.2. The application site is in an area zoned for residential development in the current County Development plan and the principle of development on the lane has been established by other permitted/constructed mews development the lane.

### **7.3. Access**

7.4. The appeal makes the case that the access lane is inadequate and that cars turning at the end will disturb adjoining houses.



- 7.5. The proposed development is accessed over a poorly surfaced lane which has previously been granted permission for mews house development. The planning authority's transport section report required that the applicant carry out upgrade works but this was not included in the planning authority's decision to grant.
- 7.6. The application includes provision for a single car parking space which is accessible from the mews lane without driving beyond the application site. I consider that this arrangement is achievable and will not impact on the amenity of adjoining houses. I do consider that the access lane requires upgrade works and it is reasonable that the applicant should make a proportionate contribution to these upgrade works and I attach a condition providing for this in the draft order below.
- 7.7. **Private open space**
- 7.8. The appeal makes the point that the private open space provided is inadequate. Section 8.2.3.4(x) requires that mews houses should be provided with 48m<sup>2</sup>.
- 7.9. The application provides a minimum of 56m<sup>2</sup> behind the proposed boundary wall along the lane and I am satisfied that this meets the development plan standards, and the amenity needs of future residents.
- 7.10. **Impact adjoining Development.**
- 7.11. The appeal makes the point that the proposed development will overlook adjoining property to the rear which faces onto Proby Square.
- 7.12. The proposed development is located north of the houses which back onto it on Proby Square and will therefore not cast any shadow on these sites. There are three first floor windows with opaque glazing which I consider adequate to avoid overlooking of adjoining property on Proby Square.
- 7.13. The appeal makes the point that the proposed development does not meet the separation distance of 22m between the rear of the new mews and the houses facing Proby Square. There is some flexibility in the planning authority's standards for separation distances set out in Section 8.2.3.4(x) of the Development Plan set out above.
- 7.14. The proposed separation distance at first floor of the proposed mews house to the rear of the closest house on Proby Square is 16.5m. Having regard to the orientation of the new house north of the houses on Proby square, this separation

distance at first floor level and the absence of transparent windows on this façade I conclude that the proposed development will not seriously injure the amenity of the houses on Proby Square by way of overlooking or overshadowing.

**7.15. Works outside the Site.**

7.16. The appeal makes the point that the applicant does not have sufficient legal interest in the eastern boundary to carry out the proposed development.

7.17. The submitted drawings show all works being carried out within the 'red-line' site boundary. Section 34(13) of the Planning and Development Act 2000, as amended, provides that where other impediments arise a grant of planning permission of itself does not confer a right to carry out development. In the present case and having regard to the material on file I conclude that the applicant has sufficient legal interest to make a valid planning application and that there is no bar on the Board determining this application.

**7.18. Appropriate Assessment.**

7.19. Having regard to the modest scale of the proposed development, the likely emissions therefrom, the availability of public water and sewerage and the separation distances from any European site I am satisfied that no appropriate assessment issues arise, and it is not considered that the proposed 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**

8.1. I recommend a grant of planning permission.

## 9.0 Reasons and Considerations

The application site is located in an area zoned for residential development in the Dun Laoghaire Rathdown County Development Plan 2016- 2022. Having regard to the modest scale of the proposed development, its orientation relative to and separation distance from houses on Proby Square, and subject to compliance with the conditions set out below it is considered that the proposed development would not seriously injure the amenity of adjoining property by reason of overshadowing or overlooking, would not give rise to traffic hazard and would otherwise accord with the provisions of the current County Development Plan and the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity</p>
2.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works.</p> <p><b>Reason:</b> In the interest of public health.</p>
3.	<p>The developer shall enter into water supply and wastewater connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interests of public health.</p>

4.	<p>The external finishes of the proposed development shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<p>All screen walls shall be 2 metres in height above ground level, constructed in brick or concrete block (which may be agreed in writing with the planning authority), and shall be capped, and rendered on both sides in a finish that matches the external finish of the proposed mews house.</p> <p><b>Reason:</b> In the interests of residential and visual amenity.</p>
7.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p><b>Reason:</b> To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
8.	<p>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</p>

	<p>management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of the metalling/hard surfacing of the mews lane between the junction with Carysfort Avenue and the application site entrance. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.</p> <p><b>Reason:</b> It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.</p>
10.	<p>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. 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</p>

	<p>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 the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 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.</p>
--	---

---

.Hugh Mannion  
Senior Planning Inspector

3<sup>rd</sup> August 2021