



An  
Bord  
Pleanála

## Inspector's Report ABP 310284 - 21

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<b>Development</b>	Two storey mews house and site works with use of existing entrance.
<b>Location</b>	Land at Rear 10 Ashfield Road, with frontage onto Mornington Road. Ranelagh, Dublin 6.
<b>Planning Authority</b>	Dublin City Council
<b>P A. Reg. Ref.</b>	WEB1182/21.
<b>Applicant</b>	Paul McGarry and Olga Bogdan.
<b>Type of Application</b>	Permission
<b>Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party X Refusal
<b>Appellant</b>	Paul McGarry and Olga Bogdan.
<b>Observers</b>	Maria and Brian McHugh Leo Hassett. Gerard Murphy and Linda Wall.
<b>Date of Inspection</b>	23 <sup>rd</sup> July, 2021.
<b>Inspector</b>	Jane Dennehy.

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## 1.0 Site Location and Description

- 1.1. The application site has a stated area of 340 square metres and is formed from land at the rear of No 10 Ashfield Road a two-storey house with a stated floor area of 150 square metres with frontage onto Mornington Road at which there is a vehicular entrance via double timber gates. Residential development with frontage onto Mornington Road is located to the north and the boundaries and rear entrances to the gardens of residential properties on Ashfield are located along the frontage to the south along Mornington Road.

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for construction of a two-storey house with a stated floor area of ninety-six square metres with access from Mornington Road and a pedestrian passage to the north side of the dwelling with access to the rear garden space of the existing dwelling which, it is stated in the application is to be a shared private open space serving both dwellings.
- 2.2. The dwelling design is for a two-storey finished with cream coloured render, with a folded zinc roof with glazing.
- 2.3. The stated site coverage is 43% and the stated plot ratio is 0.72

## 3.0 Planning Authority Decision

### 3.1. Decision

By order dated, 23<sup>rd</sup> April, 2021 the planning authority decided to refuse permission based on the following three reasons: -

*1. Having regard to its siting on the back of the footpath, forward of the building line of adjacent dwellings and to its design and form, it is considered that the proposed dwelling would appear incongruous within the streetscape and harmful to the character of the surrounding conservation area. The proposed development would, therefore, by itself and by the precedent it would set for similar development, seriously injure the amenities of the local*

*area, contrary to the City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.*

*2. Having regard to the lack of private amenity space to serve each dwelling, to the lack of boundary treatment and limited separation distance between the dwellings, it is considered that the proposed development would fail to provide an adequate level of residential amenity for existing and future occupiers, contrary to the City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.*

*3. Having regard to the removal of the parking area serving the existing dwelling, to the non-provision of parking to serve the proposed dwelling and to the existing parking situation in Mornington Road and Ashfield Road, which is at capacity, it has not been demonstrated that the proposed development would be acceptable with regard to parking provision, contrary to the City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.*

### **3.2. Planning Authority Reports**

- 3.3. The report of the Transportation Planning Division indicates a recommendation for additional information with regard to parking provision for the existing and proposed dwelling and a setback from the public pavement to allow prevention of encroachment onto the public footpath. It is stated that the mews lane polices and standards are not relevant and in applicable for Mornington Road which is not a mews lane, that the loss of off-street parking for the existing dwelling on the site and additional demand for on street parking is not supported. According to the report, the on-street parking demand is at capacity in that all fifty-eight residential parking permits are allocated.
- 3.4. The planning officer determined that the proposed development would adversely affect protected structures and the conservation area as well as residential amenities and, that insufficient private open space is provided for in the development. He

indicates a recommendation for refusal of permission based on the three reasons attached to the decision.

### 3.5. Third Party Observations

Observations were lodged by ten parties in which the concerns raised include the following issues:

Incompatible design with adverse Impact on the architectural character and visual amenities of the area.

Increases in demand for parking on the public road network.

Overdevelopment and excessive plot ratio and site coverage.

Adverse impact on residential amenities of the existing dwelling.

Overshadowing of No 43 Mornington Road, the adjoining property

Precedent for further similar development

Disruption to residential amenities during the construction stage.

### 4.0 Planning History

**P. A. Reg. Ref. 231/15 (PL29S.244834):** Planning permission was granted for retention of the widening by approximately 2 metres of the existing access located at the rear boundary of 10 Ashfield Road and which continues to facilitate access from the private open space to the rear of 10 Ashfield Road.

**P. A. Reg. Ref. 2557/14/X1:** Planning permission granted for a 13m<sup>2</sup> single storey side extension to first floor of existing dwelling, existing main roof extended, rear lightwell to new roof and associated works.

**P. A. Reg. Ref. WEB1109/09 (PL29S.234564):** Permission was refused further to appeal for the construction of a two-storey and three storey dwelling to the rear of existing dwelling with one car parking space based on the followed reason:

*“The proposed development, by reason of its design, overall form and location forward of the building line of adjoining properties to the north, would be out of character with the pattern and scale of development in this residential conservation area. The proposed development would, therefore, contravene*

*the objective Z2, 'to protect and/or improve the amenities of residential conservation areas, as expressed in the Dublin City Development Plan 2005-2011 and be contrary to the proper planning and sustainable development of the area.'*

Under P. A. Reg. Ref. 2064/96 permission was refused for development of a dwelling on the adjoining site at the rear of No 8 Ashfield Road.

## **5.0 Policy Context**

### **5.1. Development Plan**

The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site comes within an area subject to the zoning objective Z2: *to protect and/or improve the amenities of residential conservation areas.* According to section 14.8.2 the overall quality of the area in design and layout is such that it requires special care with regard to structures in the area, protected and unprotected.

The indicative plot ratio for development within areas zoned 'Z2' is 0.5-2.0 and the indicative site coverage is 45%

- 5.1.1. Policy CHC 4 and section 11.1.5.4 provides for protection of special interest and character of conservation areas.

Policies for mews lane and for infill development in section 16.10.16. according to which there is an increasing rarity for stone brick coach houses and need to retain and conserve all surviving examples particularly with regard to form profile and building line and original features.

Standards for residential accommodation is set out in section 16.10.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.2. An appeal was lodged on behalf of the applicant by Ray McDonnell on 19th May, 2021 included with which are photographs, a google image and a copy of a 25" map (undated).

- With regard to Reason 1.

The true building line is observed in the proposal whereas the setback for Nos 43 and 44 Mornington Road break the building line with adjoining space which would have been better as rear private open space.

The structure to the rear of No 8 Ashfield Road is on the same building line as the proposed development but the footprint could be amended to address the setback mews position. (Drawing No 1120 included in the appeal refers.)

- With regard to Reason 2: -

A proposed revision or consideration included in the appeal is omission of a solarium space at the rear in the original proposal and inclusion for a timber screen to the rear garden area providing for a space of 35 square metres in area in addition to the 8.5 square metres to the side of the dwelling. This provides for private open space of 45 square metres in total, having regard to at 6-8 square metres per bedspace provided for in the CDP, the proposed dwelling being two bedroom with four beds spaces. A permeable planted screen can be provided in line with No 43 Mornington Road.

The separation distance between the proposed and existing dwelling at 21.7 metres is in substantial compliance with CDP standards and, with increased emphasis on higher density the twenty-two metres requirement may not be applicable.

- With regard to Reason 3:

The applicant uses Ashfield Road for parking and the proposal does not involve removal of parking space. The future occupants will have benefit from available public transport facilities, cycling route and walking due to the

location including cycle rental and car sharing schemes. It is illogical to refuse permission over parking given the grant of permission for the, (now constructed and operational) fifty bed hotel at the end of Mornington Road.

- The decision to refuse permission is inconsistent with the refusal of permission in which the scale of proposed development was at issue. (P. A. Reg. Ref. WEB 1109/09 refers.)
- The design rationale is for subservience and bridging between the existing roof at No 42 and the single storey extension to No 8 Ashfield Road. Sympathetic materials and finishes are to be used maximising natural light to the dwelling and garden. The existing house is not a protected structure and the design and materials address the local massing and form in the streetscape.
- The existing rear garden has been overlooked from the rear and side of Nos 43 and 44 Mornington Road for several years and there are several roof terraces in the area which also overlook the site. It is intended to fit etched glazing to a first-floor bathroom window and privacy blinds to the first-floor main bedroom window. The roof for No 43 at ground level overhangs the application site and a window which postdates construction overlooks the site.
- The fragmented section along Mornington Road does not merit close conservation area scrutiny. The inclusion in the conservation area of Nos 43 and 44 Mornington Road and along the west side of morning ton Road are limited and questionable with regard in conservation merit.
- The application acknowledges that further submissions in respect of construction management, soakaway adaptation and materials and boundary treatment may be required.
- Precedent for the proposed development has been taken from Nos 43 and 44 Mornington Road which were built to the rear of the Ashfield Road main houses. No 43 has an oversailing lower roof, side window piped services through the application site and the design acknowledges these circumstances.



### 6.3. Planning Authority Response

There is no submission from the planning authority on file.

### 6.4. Observations

- 6.4.1. Submissions were lodged by the following parties in which the decision of the planning authority to refuse permission is supported and it is requested that the decision be upheld.

Maria and Brian McHugh, No 43 Mornington Road.

Leo Hassett, No 6 Ashfield Road.

Gerard Murphy and Linda Hall, No 13 Mornington Road.

- 6.4.2. The issues raised in their objections to the proposed development are outlined below: -

The proposed development does not respect the established building line. The houses on Mornington Road are setback behind the footpath edge.

The proposed development would be incongruous and negative in impact on the streetscape.

The proposed development is incompatible with the established character of development in the conservation area, having regard to the zoning objective.

There are no mews dwellings along the southern section of Mornington Road.

The dwelling is too large and incompatible in design and form with existing development.

Shared private open space provision is substandard and not suitable for possible future occupiers of independent dwellings. The original gardens were never intended for subdivision.

Increased demand for on street parking and removal of an off-street parking space to facilitate the development. No reduction in parking should be allowed.

There have been unsuccessful applications for residential development at the application site and adjoining site at No 8 Ashfield Road.

Overlooking of the adjoining property at No 43 Mornington Road.

Undesirable precedent for similar development of an incompatible and substandard nature.

## 7.0 **Assessment**

7.1. The issues considered central to the determination of the decision having regard to the reasons for the decision to refuse permission, the appeal and observer submissions are:

Visual and architectural heritage impact – architectural conservation area.

Residential amenity – qualitative standards – proposed and existing development.

Parking.

Environmental Impact Assessment.

Appropriate assessment screening.

### 7.2. **Visual impact on streetscape – architectural conservation area.**

7.2.1. With regard to Reason1, the site location comes within a designated architectural conservation area (ACA) although it is at the southern end of a section of Mornington Road off the frontage of which rear entrances and outbuildings to Ashfield Road properties are located. It is noted that in the appeal the conservation merits of this section are questioned as not being worthy of inclusion with the ACA. However, infill development, if any, on it irrespective of its inclusion within the ACA, must be demonstrated to be positive and to enhance the amenities and merits of the area. In this regard infill developments in contemporary and contrasting form and design may compatible and positive in streetscape views.

7.3. It is considered that proposed dwelling in its front elevation presentation onto the streetscape, is acceptable and it is of note that it integrates with parapet heights of the adjoining, is compatible in fenestration detail and in finishes. It is recommended that the revised front building line of the dwelling, which integrates with that of the adjoining property at No 43 to the north side. It is not clear as to how the incidental space behind the footpath edge would be presented. A planting scheme is

recommended and the matter could be addressed through compliance with a condition if permission is granted.

#### **7.4. Residential amenity – qualitative standards – proposed and existing development.**

- 7.4.1. With regard to Reason 2, it is agreed with the planning officer that the initial proposal for the existing and proposed dwellings to share private open to the rear between the properties is unsatisfactory. The modified proposals within the appeal submission omitting a solarium and erecting a boundary treatment would be acceptable. However, it is considered that space allocated to the pedestrian footpath cannot be included within the calculation. Therefore, it is estimated based on the applicant's submissions that an area of thirty-five square metres to the rear of the dwelling is provided for in the modified proposal. For the four-bed unit, having regard to the inner suburban location this proposal would be satisfactory but a rear boundary wall would be required to ensure satisfactory privacy and adequate boundary definition.
- 7.4.2. The private open space retained for the existing dwelling, (to which an extension has been added) would retain sufficient amenity value and at first floor level. It is considered that there are sufficient separation distances between the opposite windows. It is noted that the first-floor room to the rear is a bedroom as opposed to main living space. The proposed development is considered acceptable with regard to reciprocal qualitative standards for the occupants of the existing and proposed dwelling. However, a condition providing for removal of exempt development entitlements is recommended if permission is granted to allow for further planning review in the event of future additional development being considered.
- 7.4.3. With regard to potential for adverse impact on the property at No 43, to the north side, it is considered that no undue overlooking to the rear private open space would arise, and it is noted that obscure glazing is to be fitted to the side elevation store/study window at first floor level.

#### **7.5. Parking.**

- 7.5.1. With regard Reason 3, it is noted that the proposed development is not feasible if the requirement for on-site parking provision is to be strictly applied in respect of the existing and proposed dwellings in which case refusal of permission would be warranted.

- 7.5.2. At present on street parking in front of the site is not permitted, double yellow lines being along the carriage way. The site has double gates on the Mornington Road frontage providing for vehicular access for off street parking serving the existing dwelling although it is stated in the appeal that the occupants opt to use Ashfield Road for parking instead. However, it should be acknowledged that it remains the case that the proposed development results in loss of off-street parking facilities serving an existing dwelling as referred to in the Transportation Planning Division's report and, furthermore, demand for on street parking generated by the proposed additional dwelling resulting in parking for two dwellings being at issue.
- 7.6. Although it is stated in the Transportation Planning Division's report that there is no capacity for additional residents' parking permits to be issued it is considered reasonable for the proposed development to be permitted without off street parking provision for both dwellings. The case made based on the location close to the city centre, proximity of public transport, car sharing and cycle rental scheme facilities, and strategic policy for discouragement of private car trips within the city is reasonable. A zero-parking policy has been applied, as pointed out in the first party appeal in respect of developments in the Ranelagh area.
- 7.7. **Environmental Impact Assessment Screening.**
- 7.7.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.
- 7.8. **Appropriate Assessment.**
- Having regard to and to the nature of the proposed development and the inner urban site location, no Appropriate Assessment issues proposed development would not 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. In view of the foregoing, although the consequence of developing the site is that there would be no off-street parking provision for both the existing and proposed dwellings, it is considered that the proposed development subject to incorporation of the modifications included with the appeal submission is acceptable and that the appeal should be upheld and the planning authority overturned. Draft reasons and considerations and conditions follow.

## 9.0 Reasons and Considerations

Having regard to the footprint, site layout and to the design, form and scale, height, materials and external finishes for the proposed extension it is considered that, subject to compliance with the conditions set out below, the proposed development, would satisfactorily integrate into the streetscape and the established pattern and character of development in the area, would not be seriously injurious the residential amenities of adjoining properties, would not devalue properties within the vicinity would acceptable in terms of traffic safety and convenience and would 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 further plans and particulars submitted to An Bord Pleanala on 19<sup>th</sup> May, 2021 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. A two metres high block boundary wall shall be erected along the rear boundary with the adjoining property at No 10 Ashfield Road. The construction of the wall shall be completed prior to the occupation of the dwelling. Prior to the commencement of the development, plan, elevation and section drawings to include details of materials shall be submitted and agreed in writing with the planning authority

**Reason:** In the interests of orderly development and the residential amenities of the proposed development and adjoining properties.

The first floor north facing window for the proposed store/study room shall be fitted with obscure glazing and shall be top opening only.

**Reason:** In the interest of the residential amenities of adjoining properties.

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. Sample panels shall be erected on site for inspection by the planning authority in this regard.

**Reason:** In the interest of visual amenity.

4. Water supply and 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.

5. The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

6. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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.

7. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the site curtilage in the absence of a prior grant of planning permission.

**Reason:** To allow for further planning review having regard to the limited site size and residential amenity,

8. 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.

**Jane Dennehy**  
**Senior Planning Inspector**  
**25<sup>th</sup> July, 2021.**