



An
Bord
Pleanála

Inspector's Report

ABP-310478-21

Development	Construction of new hard standing area of approx. 430 sqm for car parking
Location	Ardoyne House, Pembroke Park, Dublin 4, D04 F3C3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3808/20
Applicant(s)	Ardoyne House Management Limited
Type of Application	Planning Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party Appeals
Appellant(s)	Paul Linders Patrick Cronin
Observer(s)	None
Date of Site Inspection	17 th February 2022
Inspector	Susan Clarke

1.0 Site Location and Description

The site is located at Ardoyne House, Pembroke Park, Dublin 4, to the rear of Clyde Lane and Pembroke Park in Ballsbridge, and has a stated area of 9,208 sq m. The 1960's House comprises 46 No. apartments over 12 stories and is located on the western edge of Herbert Park. There are 8 No. two storey mews units located along the northern boundary of the site that back onto Clyde Lane. East of the mews units there is a series of single storey garages that the Applicant has advised while once formed part of the original 1960's development, are now in separate ownership. A line of similar garages extends along the southwestern boundary.

The development is accessed via Pembroke Park and a smaller, vehicular entrance from Clyde Lane. The access drive via Pembroke Park is c. 5.5 metres wide with a footpath on one side. Surface car parking is available to the front and sides of the House. I understand from the documentation on file that residents parallel park in front of the mews units, notwithstanding that there are no demarcated spaces on this part of the site.

2.0 Proposed Development

The proposed development consists of the construction of a hard standing area (c. 430 sq m) in the southern corner of the site to provide for 19 No. car parking spaces.

Following a Request for Further Information, the total number of new car parking spaces was reduced to 8 No. (see Dwg. No. PL-04, Rev. 01 dated April 2021).

The development also includes for the introduction of car controls in front of the mews and provision of disabled parking in front of the Ardoyne House.

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council issued a Notification of Decision to Grant Permission on 14th May 2021 subject to six conditions.

Conditions No. 4 states:

The applicant is requested to comply with the following Transportation Division requirements:

(i). Car parking spaces, 56 in total, shall be permanently allocated to the residential use and shall not be sold, rented or otherwise sub-let or leased to other parties. 8 no. car parking spaces shall be allocated to the mews units.

(ii). All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer. (iii). The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason: In the interest of the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report (14th May 2021)

Following a Request for Further Information (RFI) to address concerns by the Local Authority's Transportation Division, the Planning Officer considered that the proposal was acceptable and in line with the Z1 zoning objective for the site and would not negatively impact on the site itself or neighbouring sites.

3.2.2. Other Technical Reports

Transportation Division (20th January 2021 and 5th May 2021): Following confirmation by the Applicant of the existing parking arrangements for the mews, the proposed maximum number of car parking spaces on site and the submission of auto-tracking drawings for fire vehicles on the site, the Division confirmed that it had no objection subject to the attachment of conditions.

Drainage Division (21st December 2020): No objection subject to condition.

3.3. Prescribed Bodies

Irish Water: No comments received.

3.4. Third Party Observations

Two Third-Party Observations from local residents were made in respect of the application. The key points from the Observations can be summarised as follows:

- The development will reduce residential amenity in the area and negatively impact on the character of Herbert Park as a result of increased noise and lighting.
- The proposal is contrary to environmental and green-focused intentions and plans towards reducing vehicle traffic in the city outlined in the Development Plan.
- Available existing parking and garage space on the site is more than adequate to accommodate residents' needs.
- Insufficient detail is given of how and why additional parking needs to be provided. It would appear there is an ulterior motive behind the application.
- No consultation was held with residents prior to the lodgement of the application.
- Mews residents have parked in front of their properties for years. It is critical to their enjoyment of the house. One Observations states that a resident of one of the mews has mobility issues.
- Inaccuracies on the planning drawings with respect to the existing parking arrangement.
- The current level of car parking provision exceeds the Development Plan maximum standard of one space per unit and as such is a material contravention of the Development Plan.
- The Applicants claims of under provision are unsubstantiated and the need for more parking is not proven.

4.0 Planning History

DCC Reg. Ref. 0489/19; ABP Ref. 306122-19: An Bord Pleanála determined in April 2020 that the construction of a hard surface area of c.406 sq m of the garden to the

side of Ardoyne House for the provision of permitted parking spaces is development and is not exempted development.

Reg. Ref. 4095/17; ABP Ref 300719-18: Planning permission refused in August 2018 for the change of use of the two garages to a 2 bed 2 storey townhouse residence at Garage Numbers 1 and 2, Ardoyne House due to an insufficient quantum or quality of private open space, the visual impact and piecemeal design approach.

DCC Reg. Ref. 0400/00ABP Ref. PL29S.119212: Planning permission granted in November 2000 for the demolition of an existing structure comprising one disused apartment and nine garages and the construction of eight apartments. In terms of car parking, the Inspector's Report dated November 2000 states that "*The parking provision of 87 spaces for 57 units is to an acceptable standard*".

DCC Reg. Ref. 2471/99: Planning permission granted in November 2019 for alterations to the rear elevation including glazing in of balcony area and replacement of existing windows to 9th floor apartment.

DCC Reg. Ref. 4031/99; PL29S.118728: Planning permission granted in October 2000 for the demolition of an existing structure comprising one disused apartment and nine garages and the construction of seven apartments.

DCC Reg. Ref. 1842/99; PL29S.112838: Planning permission in December 1999 refused for five, two storey town houses with pedestrian access to Clyde Lane.

DCC Reg. Ref. 0178/97: Planning permission granted in April 1997 for the retention of conversion of apartment Nos. 51 and 52 into 1 apartment including infill of balcony to No. 52 and proposed alterations at fifth floor.

5.0 Policy Context

5.1. Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities, (DoHPLG, 2020)

These statutory guidelines update and revise the 2015 Sustainable Urban Housing: Design Standards for New Apartments Guidelines, and the 2018 Guidelines in relation to Shared Accommodation schemes. The objective is to build on the content of the 2015 apartment guidance and to update previous guidance in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking

account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines.

Section 4.19 of the Guidelines states that 'Central and/or Accessible Urban Locations' that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The policies above would be particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such rail and bus stations located in close proximity.

Section 4.21 of the Guidelines states that 'Intermediate Urban Locations' served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare net (18 per acre), planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard.

5.2. Dublin City Development Plan 2016-2022

The subject site is zoned Z1 Residential, with the stated objective: *to protect, provide and improve residential amenities.*

The site is located in Area 2 on Map J (Strategic Transport and Parking Areas) and as such a 'maximum' of one car parking space per dwelling is permissible.

Policy MT17: To provide for sustainable levels of car parking and car storage in residential schemes in accordance with development plan car parking standards (section 16.38) so as to promote city centre living and reduce the requirement for car parking.

5.3. Natural Heritage Designations

The South Dublin Bay SAC site code 000210 and South Dublin Bay and River Tolka SPA site code 004024, are the nearest Natura sites, located c 1.6km away.

6.0 The Appeal

Two Third-Party Appeals were submitted to An Bord Pleanála by the local residents opposing the Local Authority's decision:

1. Patrick Cronin of No. 6 Ardoyne Mews, Ballsbridge, Dublin 4
2. Paul Linders of Orchard Lane Herbert Park, Ballsbridge.

Mr Cronin's grounds of appeal can be summarised as follows:

- No objection to the use of the additional hard standing area to rearrange the 46 No. spaces, however strenuously objects to the displacement of parking in front of the mews to a remote part of the site.
- The statutory notices did not make reference to the relocation of the mews parking spaces and as such the application should be refused or the notices should be readvertised.
- As part of the purchase of the mews, he is entitled to park in front of his house and have access to visitor parking within the general area.
- The parking space in front of his house is critical to his enjoyment of the house for the last 18 years.
- There was no consultation with residents prior to the lodgement of the subject planning application.
- The original Site Layout Plan (Drg. PL04) shows 5 spaces where there are actually 8 spaces in front of the mews. The RFI submission shows 6 spaces.
- The rationale offered for the application is vague and does not stand up to scrutiny.
- The simple acceptance that a fire tender can mount or over sail a kerb or encroach onto grassed areas removes the entire basis for the Applicant's claims.
- The current proposals are part of a development play on the overall site which is being proposed in an incremental and stealthy fashion which presents a significant threat to residents of Ardoyne Mews, who have rights to their parking spaces.

Mr Linder's (owner of the dwelling adjoining the site where the hard standing area is proposed) grounds of appeal can be summarised as follows:

- The proposal is contrary to the Development Plan’s transport and traffic policy to reduce traffic in the city and to the environmental and green policy as it would directly impact on the amenity and character of Herbert Park.
- The current parking is already massively over-provided and under-utilised.
- The proposal will reduce the area’s residential amenity by the impact of increased noise and light pollution. In addition a security issue now arises due to greatly increased levels of car parking in close proximity to the Appellant’s dwelling.
- No evidence was provided to support the need for increased parking or to relocate existing parking in the interest of fire safety. No mention is made of alternative routes, the abundance of available turning arc on the site or the additional access/egress from the development onto Clyde Lane.
- The site is a Central and/or Accessible Urban Location as defined in the Apartment Guidelines and as such, the default policy is for parking provision to be minimised, substantially reduced, or wholly eliminated.
- The current car parking ratio is already over one space per unit and 1.6 spaces per unit if the garages are included.
- The application mis-represents the existing site layout and provision for parking in order to support the case.
- Mews parking has been in-situ for 20 years as per Ref. 0400/00.
- The Applicant previously stated in respect to Ref. 4095/17 that the garages formed “part of the existing parking” and are restricted in use to car parking.
- A photographic survey of the car park is included to illustrate the usage rate.
- The bulk of tenants are without parking need.

6.1. Planning Authority Response

No response received.

6.2. First Party Response to Third Party Appeals

The Applicant submitted a response to An Bord Pleanála in respect to the two Third Party Appeals. The key points can be summarised as follows:

- The new hard standing area will facilitate an enhanced arrangement for existing car parking within the site, enabling improved disabled provision to be provided and addressing access difficulties that have been experienced by Dublin Fire Brigade due to the existing situation.
- The parking will be provided in an area that was originally intended for garages and carports but was subsequently laid out as a grassed area.
- Eight spaces will be available to residents of the mews in the parking area closet to the subject units, (less than 20m from the units).
- The overall level of car parking within the site will not increase. The application does not facilitate or encourage increased car use and does not conflict with the Development Plan.
- The development was accurately described in the statutory notices and the application was validated by the Local Authority.
- The Ardoyne Mews lease agreement (extract included with the Response – Appendix D) states that residents and visitor parking must be “in the parking spaces” of the “main common areas”. There are no demarcated spaces in front of the mews. The existing spaces are not allocated to any specific units.
- The drawings submitted with the application showing parking in front of the mews were submitted to illustrate the obstruction that can be caused to emergency service vehicles, not to illustrate a number of parking spaces.
- The Applicant has engaged with all residents of the mews units on the safety issues caused by car parking in front of the subject units. Copies of notices to residents which came on foot of verbal advice received from the Chief Fire Officer are included with the Response.
- The application is made in response to concerns raised by the Fire Brigade and to enable the provision of disabled car parking spaces in compliance with current building regulations.

- The Swept Path Analysis illustrates that the access road is not wide enough for fire tenders when cars are parked in front of the mews.
- The Clyde Lane access point is not wide enough for a fire tender to manoeuvre.
- The proposed development is within a private residential site not parkland and will have no impact on the amenity or character of Herbert Park.
- The proposal is screened from Orchard Lane by a mature landscape buffer and will not represent any significant impact on residential amenity.
- Current levels of parking are reflective of the site when fully occupied (Covid and upgrades to apartments have reduce levels temporarily).
- The 31 garages do not fall within the site and are under separate ownership.

7.0 **Assessment**

Having examined the application details and all other documentation on file, including the Observations submitted to the Local Authority, the Third-Party Appeals, and First-Party Response submitted to the Board, inspection of the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Mew Car Parking Allocation
- Construction of Hard Standing Area
- Legal and Other Issues
- Appropriate Assessment.

Each of these issues is addressed in turn below.

7.1. **Mews Car Parking Allocation**

At present, residents of the mews parallel park in front of the subject units, notwithstanding that there are no demarcated spaces at this location. I understand from the Third-Party Appeals that this has been standard practice for many years. The Applicant advised at RFI stage that there are no spaces allocated within the site's existing car park (48 No. spaces) which are for sole use by the mews (or any specific apartment in the Ardoyne House).

As stated above, the Applicant has advised that Dublin Fire Brigade raised concerns in relation to this parallel parking following a fire incident at the Ardoyne House. As is evident from Dwg. No. 210035-DBFL-RD-SP-DR-C-1001, Rev. 03 submitted at RFI Stage, it is not possible for a fire tender to manoeuvre through the area where the access road from Pembroke Park meets the mews, when cars are parallel parked in front of these units. (The Applicant has also advised that the Clyde Lane access point is too narrow for a fire tender to manoeuvre.)

Notwithstanding the fact that the space in front of the mews may have been used by residents for many years, I consider that this practice represents a significant fire safety hazard. As such, I am satisfied with the proposals to improve the site's accessibility by prohibiting parking in this area (a no parking zone to the front of the mews will be marked with double yellow lines and no parking signs located at each end) and to allocate eight parking spaces for the mews adjacent to the landscaped area in the centre of the site (approximately 20m from the subject units). Having regard to the separation distance between the proposed parking and the mews, I do not consider this proposal represents a significant reduction in residential amenity for the mews residents. There is good natural surveillance in the area as it is overlooked by the mews and the units in the Ardoyne House and as such, it acceptable from a security perspective. I concur with the Applicant that the suggestion that fire tenders mount the kerbs or encroach onto grassed areas to manoeuvre around the parked cars is less than ideal.

7.2. Construction of Hard Standing Area

The proposed development includes the construction of a 430 sq m hard standing area to accommodate eight new parking spaces (originally 19 No. proposed) and a turning area. The spaces will compensate for the eight existing spaces now proposed for allocation to the mews units. At present, the site has 48 No. demarcated spaces. At the time of my site visit (during the afternoon midweek), approximately 75%/80% of the demarcated spaces were in use. The proposal will result in the provision of 56 No. spaces including 2 No. disabled spaces (to the front of the Ardoyne House) and two visitor spaces. As such, each unit (46 No. in the main house and 8 No. mews) will avail of one parking space and there will be two visitor spaces. The site is located approximately 950m as-the-crow-flies from the Lansdowne DART station and 1,200m

from the Ranelagh LUAS stop. I consider the proposal to be compliant with the Development Plan's policy of a maximum of one space per residential unit.

The Applicant states that the hard standing area was always intended to be designated as a hard standing area for vehicular use as per a 1960s site layout plan (Dwg. No. G5/24/6) for the site. The subject area is located within the site and does not form part of Herbert Park. Furthermore, it is well screened from the Park and as such I do not consider that it will negatively impact the character of the Park. Having regard to the size of the area (430 sq m), I do not consider that the proposal will adversely impact the area's biodiversity. I note there are no adjoining environmentally sensitive sites.

Due to the mature boundary planting and differences in ground levels between the subject area and the dwellings located on Orchard Lane (to the southwest), I do not consider that the proposal will adversely impact the residential amenity of the adjoining dwellings by means of overlooking or visual impact. Due to the nature of the proposed development (residential car parking), I do not agree that the proposal will result in a significant increase in noise or light pollution. I reiterate that the development does not propose to increase the current intensity of parking on the site (including the parking associated with the mews), but rather proposes a reallocation. Furthermore, I do not consider that the proposal represents a security risk to the adjoining dwellings, noting that there is a high wire boundary fence at this location and the area is overlooked by Ardoyne House.

7.3. **Legal and Other Matters**

Consultation and Statutory Notices

The Appellants argue that the Applicant failed to consult with residents prior to the lodgement of the planning application and that the statutory notices failed to adequately describe the proposed development. I highlight that there is no statutory obligation on Applicants to undertake consultation for such developments in advance of the lodgement of a planning application.

In terms of the validity of the application, I am satisfied that the notices adequately described the development as per the requirements of the *Planning and Development Regulations 2001 (as amended)*. The RFI Response submitted to the Local Authority was not considered to be significant and as such, there was no requirement for the statutory notices to be readvertised at that time. Furthermore, in my opinion, as there

are no demarcated spaces in front of the mews, it may be considered misleading to make reference to the removal of such spaces in the statutory notices.

Garage and Lease Agreements

The Appellants question why the single storey garages that originally formed part of the main house development are not included in the overall quantum of car parking. It is not clear how/why the garages were sold independently to the apartments. However, it would appear from this application and Reg. Ref. 4095/17; ABP Ref 300719-18 that they are in separate ownership to the Ardoyne House and Ardoyne Mews. As such, I consider that it would be ultra vires for the Board to include the garages in the determination of the subject application.

In terms of residents' lease agreement and the availability of car parking, I highlight Section 34(13) of the *Planning and Development Act 2000 (as amended)* states: "A person shall not be entitled solely by reason of a permission under this section to carry out any development." As such, should the Board be minded to grant permission for the development, it is the Applicant's responsibility to ensure sufficient legal interest exists to implement the permission.

7.4. Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment 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

- 8.1.1. I recommend that planning permission be granted, subject to the conditions outlined below.

9.0 Reasons and Considerations

Having regard to the site's residential land use zoning and proximity to public transport, the nature and scale of the proposed development, and the car parking provisions of

the Dublin City Development Plan 2016-2022 and the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities, (DoHPLG, 2020) it is considered that subject to the compliance with the conditions set out below, that the development would improve the site's accessibility for emergency vehicles and would not adversely injure the residential amenity of the area. The proposed development would therefore be in accordance with 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, as amended by the further plans and particulars submitted on 19th April 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.</p> <p>Reason: In the interest of clarity.</p>
2	<p>Car parking spaces, 56 in total, shall be permanently allocated to the residential use and shall not be sold, rented or otherwise sub-let or leased to other parties. 8 No. of these car parking spaces shall be allocated to the mews units as per Drawing. No. PL-04, Rev. 01 dated April 2021.</p> <p>Reason: In the interest of clarity and the proper planning and sustainable development of the area.</p>
3	<p>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.</p> <p>Reason: In the interest of public health.</p>
4	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from</p>

	<p>these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
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Susan Clarke

Planning Inspector

1st March 2022