



An
Bord
Pleanála

Inspector's Report ABP-311702-21

Development	Protected Structure, demolition of shed and construction of house.
Location	21, Belgrave Square South, Rathmines, Dublin 6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2124/21
Applicant(s)	Margaret Keane
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First and Third Party
Appellant(s)	Margaret Keane Patrick & Regina Whelan
Observer(s)	Eón Ó Cuiv & Irma Volpe
Date of Site Inspection	13 September 2022
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1. No. 21 Belgrave Square is a Victorian, mid-terrace, dwelling located along the southern side of Belgrave Square, Dublin 4. The dwelling has two storeys over basement to the front and three storeys over basement to the rear.
- 1.2. The subject development site is located to the rear of no. 21. The site comprises a single storey flat roofed garage structure with access directly on to the lane that runs to the rear of nos. 1-4 Belgrave Place and 20-27 Belgrave Square South.

2.0 Proposed Development

- 2.1. On the 29TH January 2021, planning permission was sought for the demolition of an existing single storey shed and the construction of a mews dwelling (152sq.m.) to the rear of the dwelling at no. 21 Belgrave Square (Protected Structure). Proposed plot ratio according to the application form is 0.95 and site coverage is 43%.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 24th September 2021, the Planning Authority issued a notification of their intention to GRANT permission subject to 18 no. conditions.
- 3.1.2. Condition no. 3 states:

“The development hereby approved shall incorporate the following amendments: - a) the third storey of the proposed mews dwelling shall be omitted in its entirety and the building shall have a flat roof. Revised plans, drawings and particulars showing these alterations and any resultant internal modifications shall be submitted to, and agreed in writing by the Planning Authority prior to development, and such works shall be fully implemented prior to the occupation of the buildings:- Reason: In the interests of orderly development and visual amenity.”

3.2. Planning Authority Reports

- 3.2.1. **Drainage Division:** No objection subject to conditions.
- 3.2.2. **Transportation Planning:** Further information required regarding the internal dimensions of the proposed car port, auto track drawings, the proposed set back and car parking arrangements for the existing dwelling.

- 3.2.3. **Conservation Officer:** Height should be reduced to two storey. The proposed development involves the removal of parking for the existing dwelling. No parking to the front of the dwelling will be permitted. More amenity space required for the Protected Structure. Additional information required.
- 3.2.4. **Planning Report:** Three storey mews is not appropriate in terms of overlooking, precedent and visual impact. Applicant should be requested to consider the scale and depth to ensure subservience. Proposed development is acceptable in terms of residential amenity. Overshadowing of neighbouring properties will occur. Laneway is 2.8m in width , proposed development provides set back to provide for required 5.5m wide carriageway. Manoeuvring details should be requested. Further information should be requested.

3.3. **Prescribed Bodies**

- 3.3.1. None on file.

3.4. **Third Party Observations**

- 3.4.1. Issues raised by third-party submissions to the Planning Authority are:
- Overlooking and overshadowing of adjoining properties,
 - Out of character with the pattern of development in the area, inappropriate scale at three storey
 - Laneway is too narrow, footpath is heavily used, no other mews on the lane
 - Three storey contravenes the Mews guidelines
 - Traffic hazard

3.5. **Request for Further Information**

- 3.5.1. On the 25th March 2021, the Planning Authority requested the applicant to address the following issues:
- 1 scale and massing of the proposed dwelling and degree of encroachment on the rear garden of the host dwelling. Applicant is requested to reduce the dwelling to two-storey to ensure its subordination.
 - 2 Overshadowing study
 - 3 (i) Clarify the internal width and depth of the car port and whether any support structures will impede this width

- (ii) auto-track drawings showing access to and from car port
- (iii) clarify if set-back area is to be taken in charge, finishes for the area
- (iv) clarify existing parking arrangements for no. 21 Belgrave Square South

3.6. Response to FI

3.6.1. On the 27th August 2021, the applicant responded to the FI request as follows:

- 1 proposed overall height reduced by 700mm, parapet height reduced by 1305mm, building depth reduced by 1245mm at ground and first floor, at 1340mm at second floor. Rear boundary wall moved by 1730mm, increasing the size of the main house garden by 11.5sq.m.
- 2 Sunlight, Daylight and Shadow Assessment
- 3 Details provided of finishes to proposed set-back
- 4 Details provided of boundary treatments

3.7. Reports on File following submission of FI

- 3.7.1. **Transportation Planning:** No objection subject to 5 no. conditions
- 3.7.2. **Conservation Officer:** Third storey set-back is incongruous and should be omitted in its entirety. Recommendation to grant subject to 7 no. conditions.
- 3.7.3. **Planning Report:** Revised proposal has not addressed the Planning Authority's concerns regarding the scale of the proposed three storey dwelling. Second floor would appear visually incongruous and should be omitted. Impact on the adjoining dwelling at no. 20A in terms of overshadowing is acceptable and will be further mitigated by the reduction in height of the proposed dwelling. Information submitted has addressed the FI request. Recommendation to grant permission subject to conditions.

4.0 Planning History

- 4.1.1. **ABP-302969-18:** Planning permission granted for the retention of a paved roof terrace over a single storey return, 1.6m high timber screen around the roof terrace, new access door to the first floor of the rear elevation, external stairs providing direct access to the garden, and all associated site works.
- 4.1.2. **Reg Ref 3961/14:** Planning permission granted for refurbishment and repair to the existing property.

- 4.1.3. Section 5 Declaration **0234/14**: Split decision where the removal and replacement of internal works was not required to receive planning permission and the renewal and repair of the existing mechanical and electrical fittings, relocation of the bathroom and the fitting of a new kitchen at ground floor level, examination and repair of foul and surface water drainage and strengthening of ground floor would require planning permission.

5.0 Policy Context

5.1. Architectural Heritage Protection – Guidelines for Planning Authorities

- 5.1.1. This guidance, which is a material consideration in the determination of applications, sets out comprehensive guidance for development in conservation areas and affecting protected structures. It promotes the principle of minimum intervention (Para.7.7.1) and emphasises that additions and other interventions to protected structures should be sympathetic to the earlier structure and of quality in themselves and should not cause damage to the fabric of the structure, whether in the long or short term (7.2.2).
- 5.1.2. With regard to **curtilage**, section 13.3.1 of the guidelines state that features within the curtilage and attendant grounds of a protected structure can make a significant contribution to the character of that structure. The designed landscape associated with a protected structure was often an intrinsic part of the original design concept and, as such, inseparable from the building. Where proposals are made for alterations to a designed landscape, ancillary buildings, structures or features within the curtilage or attendant grounds of a protected structure, a site inspection should be carried out by the planning authority in order properly to understand the potential effects of the proposed development. **Section 13.3.2** states that when assessing the contribution of structures or features within the curtilage or attendant grounds to the character of a protected structure, and when considering any proposals to alter such features, certain criteria must be considered.

5.2. Dublin City Council Development Plan 2016-2022

- 5.2.1. The 2022-2028 Dublin City Council development plan is due to be adopted in late 2022. Until that time, the operative plan is the 2016-2022 City Development Plan.

5.2.2. The site is located within an area zoned, Z2, Residential Conservation, where it is an objective *“To protect and/or improve residential conservation areas amenities”*.

5.2.3. The dwelling is a Protected Structure, and located within a residential conservation area, therefore the following policy and guidelines apply.

5.2.4. **Chapter 16** includes the Development Management Standards and has regard to Design, Layout, Mix of Uses and Sustainable Design. **Table 16.1** provides the Maximum Car Parking Standards for Various Land-Uses and **Table 16.2** the Cycle Parking Standards. Applicable to the proposed development are the following:

- Indicative plot ratio for Z2 zones is 0.5 to 2.0,
- Indicative site coverage for the Z2 zone is 45%

5.2.5. The policies in relation to Protected Structures are set out in Section 11.1.5.1. Policies of note in the development plan include:

CHC1: It is the Policy of Dublin City Council to seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

CHC2: To ensure that the special interest of protected structures is protected Development will conserve and enhance Protected Structures and their curtilage and will: (a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest (b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances (c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials (d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure (e) Protect architectural items of interest from damage or theft while buildings are empty or during course of works (f) Have regard to ecological considerations for example, protection of species such as bats. Changes of use of protected structures, which will have no detrimental impact on the special interest and are compatible with their future long-term conservation, will be promoted.

- 5.2.6. **Appendix 24** of the development plan refers to Protected Structures and Conservation Areas.
- 5.2.7. Standards for Residential Accommodation (houses) are set out in Section 16.10.2, and Mews Dwellings at 16.10.16.
- 5.2.8. **16.10.16 (Mews Standards)**
- a) Dublin City Council will actively encourage schemes which provide a unified approach to the development of residential mews lanes and where consensus between all property owners has been agreed. This unified approach framework is the preferred alternative to individual development proposals.
 - b) Stone/brick coach houses on mews laneways are of national importance. Dublin City Council recognises the increasing rarity of stone/brick coach houses and the need to retain and conserve all of the surviving examples, particularly in relation to their form, profile and building line as well as any original features remaining. Proposals to demolish such buildings will generally not be accepted.
 - c) Development will generally be confined to two-storey buildings. In certain circumstances, three-storey mews developments incorporating apartments will be acceptable, where the proposed mews building is subordinate in height and scale to the main building, where there is sufficient depth between the main building and the proposed mews building to ensure privacy, where an acceptable level of open space is provided and where the laneway is suitable for the resulting traffic conditions and where the apartment units are of sufficient size to provide for a high quality residential environment. This is in line with national policy to promote increased residential densities in proximity to the city centre.
 - d) Mews buildings may be permitted in the form of terraces, but flat blocks are not generally considered suitable in mews laneway locations.
 - e) New buildings should complement the character of both the mews lane and main building with regard to scale, massing, height, building depth, roof treatment and materials. The design of such proposals should represent an innovative architectural response to the site and should be informed by established building lines and plot width. Depending on the context of the location, mews buildings may be required to incorporate gable-ended pitched roofs.

- f) The amalgamation or subdivision of plots on mews lanes will generally not be encouraged. The provision of rear access to the main frontage premises shall be sought where possible.
- g) All parking provision in mews lanes will be in off-street garages, forecourts or courtyards. One off-street car space should be provided for each mews building, subject to conservation and access criteria.
- h) New mews development should not inhibit vehicular access to car parking space at the rear for the benefit of the main frontage premises, where this space exists at present. This provision will not apply where the objective to eliminate existing unauthorised and excessive off-street car parking is being sought.
- i) Potential mews laneways must have a minimum carriageway of 4.8 m in width (5.5 m where no verges or footpaths are provided). All mews lanes will be considered to be shared surfaces, and footpaths need not necessarily be provided.
- j) Private open space shall be provided to the rear of the mews building and shall be landscaped so as to provide for a quality residential environment. The depth of this 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.
- k) If the main house is in multiple occupancy, the amount of private open space remaining after the subdivision of the garden for a mews development shall meet both the private open space requirements for multiple dwellings and for mews development.
- l) The distance between the opposing windows of mews dwellings and of the main houses shall be generally a minimum of 22 m. This requirement may be relaxed due to site constraints. In such cases, innovative and high quality design will be required to ensure privacy and to provide an adequate setting, including amenity space, for both the main building and the mews dwelling.

5.3. Natural Heritage Designations

- 5.3.1. The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (&pNHA) (Site Code: 000210) and the South Dublin Bay and

River Tolka Estuary SPA (Site Code: 004024) which is located approximately 3.6km to the east of the site. The North Dublin Bay SAC (Site Code: 000206) and North Bull Island SPA (Site Code: 004006) is located approximately 6.6km to the north-east of the site.

5.4. EIA Screening

- 5.4.1. In regard to the nature and scale of the development in an urban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Third-party Appeal

- 6.1.1. The owners of no. 22 Belgrave Square South have appealed the decision of Dublin City Council to grant permission. The grounds of the appeal can be summarised as follows:
- Welcome the decision to prohibit a three-storey building as it would greatly intrude on their privacy.
 - The proposed large new structure will significantly diminish privacy and light. No assessment of the overshadowing of no. 22 has been undertaken. The amenity of no. 22 will be significantly affected, contrary to the zoning objective for the area.
 - The permission to grant is inconsistent with decisions at no. 23 and 24 Belgrave Square whereby structures on those sites are to be used for purposes incidental to the enjoyment of the principal dwelling only. The stand-alone mews at no. 21 is an exemption from policy.
 - The laneway is not a mews lane as it is not of sufficient width to allow two cars to pass and to allow for direct entrance and egress manoeuvres within the laneway.
 - Vehicular access to the subject site requires convoluted and dangerous manoeuvres. Vehicles travelling north will be required to stop in the middle of Belgrave Avenue as vehicles from the site reverse across traffic coming from the south. Vehicles accessing the site from the south will be required to reverse into the site, stopping traffic on Belgrave Avenue.

- The entrance to the site is yards from the Belgrave Road / Belgrave Avenue traffic controlled junction. There are yellow lines from the site to the busy junction. Pedestrian traffic is heavy as the site is used as a route for two primary schools accessing the park. The junction has a history of road accidents.
- Auto-track drawings show the site to be entered in reverse. Common practice is to enter in forward gear and reverse on exit. These matters have not been considered by the Traffic Department. It is not good planning to grant permission with risk to the safety of neighbouring road users.
- The Board is requested to refuse permission.

6.2. Grounds of First Party Appeal

6.2.1. An agent for the applicant seeks to appeal condition no. 3 of the Dublin City Council decision to grant permission. The Board is requested to assess the appeal under section 139 of the Planning and Development Act 2000, as amended. The grounds of the appeal can be summarised as follows:

- The proposed development is consistent with national regional and local planning policy.
- There will be minimal impact on the residential amenity of neighbouring properties. This is confirmed by the Daylight and Sunlight report submitted to the Planning Authority.
- The proposed development will not compromise the character and pattern of development in the area.
- The proposed mews at 132sq.m. is consistent with mews development in the area. The removal of the third floor reduces the dwelling to 98sq.m. This is unnecessary and will not reduce the demand for car parking in the area.
- If the Board consider it necessary, the private open space for the main dwelling can be increased by reducing the private open space for the mews to 48sq.m. This would require the retention of the second floor south facing terrace on the mews.
- The set back and reduction in height is in keeping with the policies of the Planning Authority with regard to the protection of the special architectural character of the

Protected Structure. The proposed development is clearly subservient to the main structure.

- The initial proposal was for a mews of 152sq.m. This was reduced to 132sq.m. at FI stage. It will be 98sq.m. if the third floor is removed. The suggestion that this could be a three-bedroom mews is unrealistic.
- A three-bedroom home is the norm, particularly where working from home is a reality. The revised dwelling is the only viable option.
- Three-storey mews have been granted permission in Rathmines under the following permissions: 2236/21, 3739/13, 3136/15, 2424/04, 4644/19, 4794/07, 3980/14 and 3267/19.
- The proposed development meets the requirements for having a third floor in a mews as the proposed mews is subordinate in height and scale to the main building and there is sufficient depth between the two buildings to ensure privacy.
- All issues such as materials, car parking, private open space, protection of amenity have been accepted by the Planning Authority.
- The proposed mews was revised at FI stage as follows: overall height reduced by 700mm, parapet height reduced by 1305mm, building depth reduced by 1245mm at ground and first floor and 1340mm at second floor, roof has changed to a curved profile, revised terrace has a depth of 7.5m and a total area of 47sq.m, the boundary wall has been moved by 1730mm increasing the main house rear garden by 11.5sq.m.
- The proposed dwelling complies with the standards in “Quality Housing for Sustainable Communities”.
- The subject site can accommodate the proposed mews. The dwelling will introduce an architectural feature at the corner which will be visually pleasing and subordinate to the adjoining Protected Structures (30m away).
- There will be no negative impacts on the adjoining properties, on the residential amenity of neighbours or the wider area and the proposed development will be in keeping with the proper planning and sustainable development of the area.
- The Board is requested to remove condition no. 3 from the decision to grant.

6.3. Planning Authority Response

6.3.1. None on file.

6.4. Observations

6.4.1. Eón Ó Cuiv and Irma Volpe, 33 Belgrave Road

- Did not receive correspondence from Dublin City Council advising of decision.
- Supports the decision of Dublin City Council that a three-storey development is unacceptable.
- The decision to permit a house at this location fails to take account of amenity, conservation and road safety.
- The laneway is not a mews lane. The lane comprises ancillary amenities for the main houses and / or vehicular / service access. Development permitted on the lane has not sub-divided the gardens. The lane was for ash-cart access to the rear of the dwellings.
- The zoning objective for the area underlines that Protected Structures are not to be treated individually but as features within a historical tapestry. The proposed development would have a negative impact on the amenity and architectural heritage of the area.
- The Conservation Method Statement does not consider the historic significance of the lane. Belgrave Avenue was a historic route leading to Milltown, then was a section of Cullenswood Avenue and finally became Belgrave Square. The harmony and balance of the area was recognised by the An Bord Pleanála Inspector in PL29S.235569.
- The planning history of the site suggests an intention to develop the site into multiple units.
- The lane way is not 5.5m wide and the proposed set back will be used for car parking. The lane cannot provide mews for the gardens on Belgrave Road, so the proposed development will be a one-off.
- The applicants photomontages blur out the Protected Structures in the background, giving the impression that the architectural setting is irrelevant.

- The photomontages show that the proposed development would not be subordinate to the main dwelling but would be a fundamental altering of the area. This would not be in keeping with the zoning objective of the area.
- The proposed development is not densification but an intensification of built footprint.
- The removal of garden space removes the ability to host mature trees.
- None of the applicants comparables can be used as precedents as they are not similar locations, zoning objectives, have greater distance to the main house or provide parking on the mews lane.
- The proposed design finishes cannot mitigate against the bulk and scale of the proposal.
- The original boundary wall between no.s 21 and 22 has been overlooked. It is good practice to preserve original boundary walls.
- It is not a function of the planning system to fulfil the applicants household requirements.
- It is unlikely the proposed development will have only one car. Car ownership is required notwithstanding the proximity to schools, shops and employment.
- The private open space for the proposed mews and the dwelling at no. 20A will be severely overshadowed.
- The private rear garden of the dwelling at no. 21 is not under utilised.
- The proposed development is not in compliance with the National Planning Framework, the RSES, Rebuilding Ireland, the Guidelines for Planning Authorities on Sustainable Residential development in Urban Areas, and the Urban Development and Building Height Guidelines for Planning Authorities.
- The site is too restricted to accommodate a suitable house within a two-storey envelope. The proposed dwelling is not 22m from neighbouring property rear facades.
- The proposed development will injure the residential and visual amenities and harm the conservation context of the area.

- The proposed development is contrary to policies CHC1, CHC2, CHC4 and section 16.10.16 of the Dublin City Council development plan.
- The development of the lane as a mews laneway should be part of a coordinated sustainable plan for the lane as a whole.
- The applicants statement that the shed has not been used as a garage suggests that it is not convenient for off-street parking.
- The omission of the second storey would remove the outdoor terrace, leading to a deficiency in private amenity space.
- Reversing into or out of the proposed car parking space will create a traffic hazard. Belgrave Avenue is a busy 50kph road. The applicants engineers have not demonstrated manoeuvres within the laneway as requested by the Transportation Department. The width of the lane is only 4.8m and so provides no useable carriageway.
- The proposed off-street car parking space is too cramped, with only 25cm space at either side and to the rear of the car.
- The applicants drawings are queried. On-site measurements suggest a 4.55m width and a 2.26m wide car port.
- The Board is requested to refuse permission.

6.5. Third-party response to First Party Appeal

6.5.1. The third-party has responded to the first party appeal, the details of which can be summarised as follows:

- As there is a third-party appeal of the decision, the first party request for their appeal to be considered under section 139 of the Planning and Development Act 2000, as amended cannot be acceded to. The appeal must be considered de novo.
- The applicants response to the FI request did not address the Planning Authority request “to reduce the scale of the building to two storeys”. This has stopped the Planning Authority considering the impact of a two-storey development on neighbouring properties.

- The applicants requirements in terms of design and household size are not planning considerations.
- The subject site is not a small infill location as it is not a gap in a building line. The designation of a rear garden of a period property as an infill site is a dangerous presumption.
- Section 13.5 of the Architectural Heritage Protection Guidelines requires careful scrutiny of development within the curtilage of a Protected Structure.
- The relationship between the Protected Structure and the street would be damaged by the proposed development.
- Section 16.2.2.2 of the development plan defines an infill site as a gap site within existing areas of established urban form. The subject site which allows a clear view of the rear of the terrace at Belgrave Square South is not a gap in need of filling.
- The proposed three-storey would be out of character with the small-scale ancillary developments on the laneway.
- Government policy on reducing urban sprawl should not be used to justify the proposed development.
- The laneway is not an “existing mews laneway” as suggested by the applicant.
- The green space to the rear of no. 22 is a family garden. The reduced light and solar gain to the garden and the rear of the house will be detrimental.
- The proposed development would overlook no. 22 being less than 22m from the rear.
- The photomontages submitted by the applicant do not represent the true backdrop of the terrace.
- The applicant has ignored the Planning Authority’s request for a two-storey mews that complies with development plan policy. Development plan policy for three storey development is for apartments only.

- The three-storey mews examples submitted by the applicant do not compare to the subject site. The subject site is very prominent with only low-profile structures adjoining.
- The proposed development does not respect the character of the existing street as required by section (e) of the mews policy.
- The An Bord Pleanála report on PL29S.235569 acknowledges the hierarchy between the small structures on the lane and the Protected Structures. The raised roof of the garage at 5.5m was stated to be visually discordant and out of character with the intact period backdrop. The Board is requested to reach a similar conclusion in the subject appeal.
- Condition no. 2 of 2906/20 restricts the use of the permitted garden building to purposes incidental to the enjoyment of the principal dwelling on site.
- The applicants photomontages give a clear illustration of how overbearing even a two-storey structure would be. Permission for the proposed development should be refused or reduced to two-storey.

6.6. First Party Response to Third-party Appeal

6.6.1. An agent for the first party has responded to the third party appeal as follows:

- A Sunlight, Daylight and Shadow Assessment submitted in response to the FI request shows that all windows pass the relevant VSC, APSH, WPSH and overall sunlight checks, the average change ratio for VSC and APSH is 0.98 and for WPSH is 0.95, there is a marginal impact on the single storey mews at 20A, most neighbouring amenity spaces pass the 2-hour test for March 21st and the average change for the tested amenity space is 0.84. The appellants rear garden (1.0.A1 in the shadow study) is not affected by the proposal.
- The applications referenced by the appellant are a 2012 permission for an extended garage (3217/12 23 Belgrave Square) and a two-storey over basement garden building in the rear of no. 24 Belgrave Square (2906/20). These applications for ancillary non-habitable space are not comparable.
- The engineering report undertaken by the applicant concludes that access to and from the car port is achievable. The shed on site was last used as a garage ten years ago. No. 21 has three parking permits and will not be impacted by the

proposed development. Other properties on Belgrave Square use the laneway to access their garage.

- The Planning Authority rejection of the third floor is misplaced. The proposed development has been well designed to protect the neighbouring properties and will not create a precedent. The Board is requested to reject the third-party appeal.

7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Mew Lane
- Design, Scale and Height
- Traffic
- Daylight and Sunlight

7.2. Principle of the Proposed Development

7.2.1. The subject site is zoned Z2, Residential Conservation Area. Residential development is permitted in principle in such areas.

7.2.2. The first party appellant has requested the Board to assess their appeal under section 139 of the Planning and Development Act 2000, as amended, the appeal being against a condition only. As a third-party has appealed the decision of the Planning Authority to grant permission, a s139 assessment is not open to the Board. the appeal must be assessed de novo.

7.3. Mews Lane

7.3.1. The third-party appellant submits that the laneway from which the subject site will be accessed does not qualify as a mews lane as it is less than 5.5m wide. The Observer submits that the lane was used to provide ash-cart access to the rear of the dwellings and is not wide enough to be designated as a mews lane.

- 7.3.2. The proposed development addresses the width of the laneway by setting back the subject site, creating a 5.5m width between the front boundary of the mews and the rear boundary wall of no. 32 Belgrave Road to the south. Little of the original stone boundary wall remains on the subject site.
- 7.3.3. The location of the subject site at the end / start of the laneway, facilitates this set back. Should other sites along the lane seek permission to develop, this option could be considered. It would involve the creation of a new building line and or the disruption of the existing. However some of the sites have already altered the original boundary wall. Significant planning gain could arise from the development of the lane as mews lane.

7.4. Design, Scale and Height

- 7.4.1. The first party appellant requests the Board to remove the condition of the Planning Authority to omit the third floor. The third-party and the Observer state that even at two-storey, the proposed development is not appropriate and must be refused permission. The third-party Appellant and the Observer submit that the rear facades of the terrace along Belgrave Square should be preserved, being clearly visible along Belgrave Avenue.
- 7.4.2. Permission was sought for a three-storey mews of 152sq.m. and an overall height of 8.68m. In response to the Planning Authority request to reduce the proposed dwelling to two-storey, a revised proposal for a barrel vaulted / curved roof three storey dwelling of 132sq.m. and an overall height of 8.19m was submitted.
- 7.4.3. As noted above, the subject site is the first site on the lane and as such occupies a unique position in terms of visibility. Generally such positions lend greater flexibility in terms of height, scale and mass. This is even more in the subject case as it is the first / only of the rear sites to be developed for housing.
- 7.4.4. Section 16.10.16 of the development plan states that “generally” mews development will be confined to two-storey buildings and that three-storey mews will be acceptable where they incorporate apartments. The subject site is a three-storey single family dwelling, not apartments. However, there is some flexibility offered in the standard.

7.4.5. The subject site being both a corner site and the first site to be developed, has the opportunity to set the scale of development on the lane. Without an overall height on the laneway to address, the proposed development must look to the Protected Structures on Belgrave Square South (two storey over basement to the front and three storey over basement to the rear) and Belgrave Road (two-storey over basement) for reference. The proposed mews dwelling at three storey with an overall height of 8.2m is clearly subservient to the Protected Structures. Further the set-back third storey and the curved roof serve to minimise the scale and mass of the mews. The design of the proposed mews is clearly a contemporary addition to the setting, one which does not seek to compete with the period features of the Protected Structures. It is considered that the proposed dwelling is acceptable in terms of height and scale and will not injure the visual amenity of the area or the special architectural setting of the Protected Structure in the immediate area.

7.5. Traffic

- 7.5.1. Both the third-party appellant and the Observer submit that the proposed development would create unsafe traffic movements, with vehicles reversing onto a busy road or reversing into the subject site across a busy road. The Observer submits that the newly created set-back area will be used for car parking rather than the restricted car port area.
- 7.5.2. While the proposed mews will create additional traffic manoeuvres across Belgrave Avenue, these will be no different to the movements that would arise should the applicant choose to use the existing vehicular access at the rear of the site. The subject lane has a number of garages / access points, all of which enter and exit Belgrave Avenue. The applicant states that the existing garage has not been used for car parking in the previous ten years. However, that use could be reinstated at any time, without the need to apply for planning permission. The proposed development, therefore, would create no greater traffic hazard than already exists. I share the finding of the Transportation Department that the creation of the proposed set-back is likely to improve visibility and traffic movements in and out of the lane.
- 7.5.3. On-street car parking is widely available in the immediate area, should the residents require more than one car parking space.

7.6. Daylight and Sunlight

- 7.6.1. Following a request for further information, the applicant submitted a Sunlight, Daylight & Shadow Assessment of the proposed development on the surrounding area. The Board will note that the windows at the rear of the third-party appellants dwelling no. 22 Belgrave Square South are included in the assessment.
- 7.6.2. The assessment for vertical sky component (VSC) shows one marginal and one fail result on windows at no. 20A, the single storey structure in the rear garden of no. 20 Belgrave Square South. All windows tested pass the annual probable sunlight hours for both summer and winter.
- 7.6.3. The BRE guidance indicates that for an amenity area to have good quality sunlight throughout the year, 50% of the space should receive in excess of 2 hours sunlight on the 21st of March. If as a result of new development an existing garden or amenity area does not meet the above, and the area which can receive two hours of sun on 21 March is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable.
- 7.6.4. The assessment shows such impact on the open space to the rear of no. 20A. With the proposed development, the 2-hour sunlight available to the triangular open space is reduced from 56% to 11% on the 21st March. The applicants report suggests this impact is acceptable as the existing structure at no. 20A appears to be unauthorised, development has been granted in the wider area with very minimal or no private open space and lastly, the proximity of Belgrave Square to the single storey structure. The report states that the single storey structure at no. 20A relies disproportionately on light over the applicants lands.
- 7.6.5. BRE targets derive from a low-density suburban housing model. Within an urban environment, greater flexibility may be justified, as strict application of the BRE reference values could curtail the otherwise appropriate development of such areas and compromise broader objectives relating to intensification and consolidation of development. This is recognised in the building height guidelines. Any development of the subject site is likely to result in some impacts on surrounding environmental conditions. The proposed scheme generally demonstrates a high degree of compliance with the recommendations of the BRE Guidelines and appropriate and reasonable regard to their provisions has been taken. The proposed development is

not of a height or scale which is considered inappropriate for this location and, having regard to the foregoing, the impacts of the proposed development are not considered to be unacceptable in this case.

7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that the 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

- 8.1.1. It is recommended that permission be granted subject to conditions, for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission is sought 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.
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	Reason: In the interest of clarity.
2.	<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 and to ensure a proper standard of development.</p>
3.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours 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>Reason: In order to safeguard the amenities of property in the vicinity.</p>
4.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interest of orderly development and the visual amenities of the area.</p>
5.	<p>The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.</p> <p>Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development</p>
6.	Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or

	<p>amending them, no development falling within Classes 1, 3 and 5 of Schedule 2, Part 1 to those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.</p> <p>Reason: In the interest of orderly development, and to allow the planning authority to assess the impact of any such development on the amenities of the area through the statutory planning process</p>
7.	<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 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>Reason: 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>

Gillian Kane
Senior Planning Inspector

27 September 2022