



An  
Bord  
Pleanála

## Inspector's Report ABP 311972-21

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<b>Development</b>	Demolition of outbuildings and construct 2 no. houses including access via rear laneway and associated works.
<b>Location</b>	Site to rear of Nos 5 and 6 Castle Avenue, Clontarf, Dublin 3. Protected Structures.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3607/20
<b>Applicants</b>	Garrett Connolly, Christine Lowry & Others
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	1 <sup>st</sup> Party v. refusal
<b>Appellant(s)</b>	Garrett Connolly, Christine Lowry & Others
<b>Observer(s)</b>	Paul Keogh & Others
<b>Date of Site Inspection</b>	15/06/22
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Site Location and Description

The site, which has a stated area of 456 sq.m., comprises sections of the rear gardens of Nos. 5 and 6 Castle Avenue in Clontarf. Nos. 5 and 6 Castle Avenue are three storey dwellings with rear returns with the rear gardens approx. 55 metres long, and between 7 and 8 metres wide. The two dwellings are protected structures. The gardens have a shared gated access onto the rear laneway with sheds/outbuildings within the respective plots. The said lane provides rear access to the properties on Castle Avenue and Haddon Road. 1 no. mews dwelling (1A Castle Avenue) also has access from the lane. The lane which is approx. 130 metre in length varies in width from 3.5 metres to 6 metres with its narrowest point at its junction with Clontarf Road to the south. There are apartment complexes to either side of the junction with walls delineating their boundaries

The site is bounded by a mews dwelling to the rear of No.7 Castle Avenue to the north which is accessed from Castle Avenue. The rear garden of No. 4 Castle Avenue bounds the site to the south.

The laneway is 3.5 metres wide at its junction with Clontarf Road and varies in width along its 130 metre length. The maximum width is 5.65 metres.

## 2.0 Proposed Development

The application was lodged with the planning authority on 22/10/20 with further plans and details submitted 24/09/21 following a further information request dated 18/12/20. As amended the proposal entails the demolition of existing outbuildings and construction of 2 no. two storey over basement dwellings served by a shared vehicular access from the lane providing for 1 no. parking space per unit.

The application is accompanied by

- Outline Urban Design Framework
- Report on Historic Boundary Walls (submitted by way of FI).
- Daylight and Sunlight Analysis (amended by way of FI).
- Letter of agreement to enter into Section 47 agreement to allow 3<sup>rd</sup> parties traverse the set back from the laneway (submitted by way of FI).

## 3.0 Planning Authority Decision

### 3.1. Decision

Refuse permission for 1 reason which can be summarised as follows

Having regard to the restricted access and the narrow width of the laneway, in particular at the access point onto Clontarf Road, the applicant has not demonstrated that the dwelling can be safely and conveniently accessed for essential and emergency reasons. The proposal would endanger public safety by reason of traffic hazard and would be contrary to section 16.10.16 of the development plan which pertains to Mews Dwellings.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The **1<sup>st</sup> Planner's** report dated **16/12/20** notes:

- The Outline Urban Design Framework does not indicate the development potential for mews houses on the western side of the laneway.
- There should be a more appropriate transition between the rear building line of 7A Castle Avenue and the front building lines of the proposed mews.
- It is recommended that in the event of a grant of permission that a section 47 condition be attached so as to allow the new laneway setback to be traversed by 3<sup>rd</sup> parties.
- While a more restrained contemporary flat roofed version might be preferable it is noted that the pitched roofs provide higher vaulted 1<sup>st</sup> floor ceilings which will allow for voluminous living areas.
- The design will not detract from the visual amenities or character of the parent protected structures.
- While the front/western 1<sup>st</sup> floor terraces have 1.8 metre high screens where the proposed dwellings are side-onto 3<sup>rd</sup> parties, their front 'open' section will be less than 11 metres from 3<sup>rd</sup> party sites to the west side of the laneway. They will overlook the private open space of dwellings on Haddon Road. It is

also noted that the 'open' sections to the sides of the 1<sup>st</sup> floor balconies will allow for side-on overlooking between the balconies and into the gardens. It is recommended that the balconies are fully contained with high screens that are 1.8 metres in height above finished floor level.

- Windows required to be fitted with obscure glazing and/or vertical fins/louvres.
- It is unclear why the mews sites were not provided with slightly deeper rear gardens. Main 1<sup>st</sup> floor windows to be recessed back 11 metres from proposed rear boundary.
- There is no ground level dividing screen wall between the 2 no. dwellings with a shared passageway leading to the mews rear/eastern gardens.
- The open space provision generally meets the development plan's required quantum of private open space, albeit the layout is somewhat convoluted.
- The proposed dwelling to the rear of No.6 Castle Avenue is potentially overbearing to the outlook of 7A Castle Avenue. Daylight and sunlight assessment to be reviewed.

A request for further information recommended.

The **2<sup>nd</sup> Planner's** report dated **21/10/21** following further information notes the internal reports as summarised below and the response to the further information request with respect to daylight and sunlight and willingness to enter into a section 47 agreement regarding access. A refusal of permission for 1 reason relating to the adequacy of the laneway recommended.

### 3.2.2. Other Technical Reports

The report from **Engineering Department – Drainage Division** dated **23/11/20** has no objection subject to conditions.

**1<sup>st</sup> report** from **Transportation Planning Division** dated **04/12/20** notes:

- The lane is not in the charge of Dublin City Council.
- The division has concerns regarding a number of accessibility, safety and servicing issues specifically laneway width, visibility at the access/egress point, pedestrian and cyclist safety, quality of laneway and access by service and emergency vehicles.

- Visibility at the junction of the laneway and Clontarf Road is limited and the applicant has not adequately addressed this.
- The laneway is considered substandard.

A request for further information recommended.

The **2<sup>nd</sup> report** from **Transportation Planning Division** dated **12/10/21** following further information notes:

- A vehicle exiting the lane onto Clontarf Road must substantially egress the lane and encroach across the footpath. The current height and layout of the walls either side of the access/egress point do not allow for safe forward visibility for motorists or for pedestrians approaching the lane access/egress point. There are serious concerns regarding pedestrian and road safety.
- No autotrack drawings have been submitted demonstrating the ability of medium or large wheel base vehicles typically associated with servicing and delivery type vehicles and emergency vehicles to turn within the lane and egress the lane in a forward motion.
- No preliminary Construction Management Plan has been submitted.
- There are serious concerns regarding the substandard nature of the existing lane and access/egress onto Clontarf Road and ability of essential service and delivery vehicles to safely and easily access the lane.
- The laneway fails to meet the prescribed laneway width of 5.5 metres along more than 50% of its length. There is no opportunity for two vehicles to pass over the 1<sup>st</sup> c.65 metres.
- Whilst the lane currently provides access to adjoining properties such access is principally secondary in nature with the exception of 1A Castle Avenue. The provision of 2 no. dwellings at the northern end of the cul-de-sac would intensify the use of the lane which would also serve as the sole access/egress point for future occupants and associated services and deliveries.

A refusal of permission for 1 reason recommended.

**1<sup>st</sup> Conservation Officer's** report dated **10/12/20** notes:

- Do not support the loss of legibility of the historic grain by way of the amalgamation of the building plots of protected structures.
- The massing, height, articulation and materiality of the proposed houses is broadly acceptable.
- It would be more appropriate from an architectural standpoint for the pedestrian access to be omitted in its entirety and for the proposed ground floor of the mews buildings to extend across the widths of their respective plots.
- While the proposal to incorporate basements is considered excessive it is noted that they are located some distance from the protected structures and should not have an impact on the structural stability of the houses themselves.
- The introduction of a new car park that would be shared between the dwellings is unacceptable and would result in a loss of historic boundary wall.

A request for further information recommended.

The **2<sup>nd</sup> Conservation Officer's** report dated **15/10/21** following further information considers that the conservation related concerns have not been appropriately addressed and that the applicant be required to revise the proposal in order to protect the setting and character of the protected structures and the legibility of the historic urban grain of the site. Conditions to be attached should permission be granted set out.

### **3.3. Prescribed Bodies**

None.

### **3.4. Third Party Observations**

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the observations received by the Board summarised in section 6 below.

## 4.0 Planning History

I am not aware of any previous planning applications on the site.

## 5.0 Policy Context

### 5.1. Development Plan

#### ***Dublin City Development Plan, 2016***

The site is within an area zoned Z2 the objective for which is to protect and/or improve the amenities of residential conservation areas.

The area to the west and north of the site forms part of the Haddon Road/Victoria Road Architectural Conservation Area.

*Policy QH1* - have regard to national guidelines in relation to residential development

*Policy QH8* - promote the sustainable development and vacant or underutilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

*Policy QH21* - ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity in accordance with the standards set out for residential development.

*Policy QH22* -ensure that new housing developments close to existing houses has regard to the character and scale of existing houses unless there are strong design reasons for doing otherwise.

*Section 16.10.16* relates to mews developments.

(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) 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, 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 a terraces, but flat blocks are not generally considered suitable in mews laneways locations.

(e) New buildings should complement the character of both the mews lane and the 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 of subdivision of plots and 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 and 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 spaces at the rear for the benefit of the main frontage premises, where this space exists at present. The 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 metres in width (5.5 metres 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 quality residential environment. The depth of this open space for the full width of the site will generally be less than 7.5 metres unless it can be demonstrably impractical to achieve and shall not be obstructed by off-street parking. Where the 7.5 metre standard is provided, the 10 square metre of private open space for bedspace may be relaxed.



(l) The distance between the opposing windows and mews dwellings and the main houses shall generally be a minimum of 22 metres. 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 adequate setting, including amenity space, for both the main building and the mews dwelling.

## 5.2. **Natural Heritage Designations**

None in the vicinity.

## 5.3. **Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development and its location within a serviced urban removed from any sensitive locations or features there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore, be excluded by way of preliminary examination and a screening determination is not required.

## 6.0 **The Appeal**

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

The submission by Marston Planning Consultancy on behalf of the 1<sup>st</sup> Party against the planning authority's notification of decision to refuse permission which is accompanied by supporting detail can be summarised as follows:

#### 6.1.1. ***Access and Traffic***

- The lane is actively used. There have been no incidents or accidents arising from vehicles, pedestrians or cyclists using the lane or access/egress onto or from Clontarf Road.
- Traffic volumes and speeds are low on the lane.
- The existing residences at No.5 and 6 Castle Avenue will no longer be utilizing the lane once the dwellings are constructed. There will be no discernible increase in the usage of the lane.

- Further information included a survey of the laneway showing its width which varies from 3.5 metres to 5.6 metres and the sightline drawing at the point of access onto Clontarf Road. Having regard to DMURS a 2 metre setback given the footpath width of 2.05 metres is more than sufficient to facilitate sightlines. These will not be significantly impaired by the adjacent telegraph pole. The forward visibility of incoming traffic is excellent at this location. The road width is such that it would enable any car to safely negotiate exiting the mews laneway.
- Substantial parts of the lane will be within the minimum carriageway widths set out in section 16.10.16(f) of the development plan. Where the lane is less than 4.8 metres, it is straight with clear visibility of oncoming traffic.
- The front/western walls of the proposed dwellings will be set back 2 metres from the laneway. As a result the exiting laneway in front of the proposed mews dwellings will be widened to over 5.5 metres. The increase in the width of the lane at this location will facilitate the turning of vehicles, including emergency vehicles, as set out in the swept path analysis accompanying the appeal.
- The width of the lane is adequate to let a pedestrian/cyclist pass a slow moving car.
- The lane width is sufficient to facilitate emergency vehicles. Auto track/swept path analysis of the ability of service and emergency vehicles to access and exit the lane provided with the appeal.
- 1 parking space per dwelling is provided.
- Refuse bins would be brought out to Clontarf Road on collection days.
- A condition requiring a preliminary construction management plan is acceptable.

#### **6.1.2. Other Issues**

- Whilst there is only one mews dwelling on the laneway, it is clear that overarching Government policy is to promote mews and similar sites to densify existing built up areas in close proximity to services and other facilities.

- The site and wider Clontarf area has a character and form that includes several mews laneways that have been subject to permissions and development in recent years. Case refs. ABP 307116-20, WEDB 1801/21, 4449/19 and 2366/15 refer.
- The dwellings have been designed in order to integrate with the existing built environment and are subordinate to the existing protected structures.
- The proposal represents a unified approach to the provision of 2 no. mews dwellings and accords with section 16.10.16.
- The historical boundary between the sites to the rear has been partly removed and the rear boundary wall adjacent to the mews laneway has been replaced. A condition requiring alternative finish to the new rear boundary wall is acceptable. The original stone wall between the properties is to be retained between the mews dwelling and the protected structures.
- The applicants have no objection to a condition requiring a 1.8 metre high screen where the balconies address 3<sup>rd</sup> party sites and where they adjoin each other.
- The applicants are willing to accept a condition increasing the depth of the light well associated with the basement of each mews to 2.5 metres if deemed necessary to maximise light levels in the study/bedroom within the basement.

## 6.2. Planning Authority Response

None

## 6.3. Observations

The submission by Paul Keogh & David Conlon (submission by Hughes Planning and Development Consultants with supporting detail on their behalf) can be summarised as follows:

- The reason for refusal has not been adequately addressed.
- The restricted width of the access/exit point in conjunction with the limited general width of the laneway which varies between 3.5 m and 5.6m would

compromise the safe and convenient access of future residents of the dwellings.

- The increase in vehicular movements would significantly alter the function of the laneway with its ancillary service function being wholly replaced as a general access laneway.
- The laneway width does not comply with the requirements of section 16.10.16(i) of the development plan. The proposal only provides for localised widening. Two cars cannot pass each other for a considerable distance at its southern end.
- Reduction of the X distance from 2.4 to 2 metres is only permitted where vehicle speeds are low and flows on the minor arm are low. While traffic flows on the lane may be low the speeds on Clontarf Road are not with a speed limit of 50kph. The Y distance should be measured to the nearest kerb (and not the centre of the road) where overtaking can occur. There are no overtaking restrictions in the vicinity of the site. The suggested sight lines of 2 x 55 m are not correctly presented and thus not achievable. Sight lines available from a 2.4 metre setback are less than 10 metres.
- The response regarding access by emergency vehicles is not sufficient. The swept paths are inaccurate and cannot be relied upon.
- Proposals to bring refuse bins to the junction with Clontarf Road is not reasonable due to the distance involved. How refuse vehicles will access the lane has not been addressed.

#### 6.4. Further Responses

The above observation as circulated for comment.

The submission by Marston Planning Consultancy accompanied by supporting detail on behalf of the applicants can be summarised as follows:

- The width of the laneway varies from 3.5 metres near the Clontarf Road entrance to 6 metres to the rear of No.6 Castle Avenue. It will be increased to 5.5 metres adjacent to the site with the majority being 4.8 metres in width. Of the 130 metres (length of the lane) only c.60 metres is marginally below the

minimum 4.8 metres required. Where it is less than 4.8 metres it is straight with clear visibility of oncoming traffic.

- The access is already used regularly by both appellants for parking of vehicles.
- The 2 metre setback for the measurement of the 'x' distance in assessing sightlines is entirely appropriate. It is allowable under DMURS in certain circumstances where vehicle speeds are low (maximum 50kph on Clontarf Road) and where the flows on the minor arm are low. The footpath at the junction measures 2.05 metres in width and is more than sufficient to facilitate sightlines in both directions. 49 metre sightlines as required by DMURS can be achieved to the nearest kerb to the east and west. There is no basis for the need for a 2.4 metre setback to measure sightlines in this instance.
- An ambulance can enter and exit the lane in a forward gear without causing traffic hazard.
- A fire tender can enter the laneway in a forward gear from the east using the bus lane without causing a traffic hazard. It is more complex from the west requiring a truck to either swing across to the other side of the carriageway to enter the laneway in a single movement or to take two movements and remaining on the east moving traffic lane. There would be a need for a fire tender to reverse out. It is an unlikely event. It would not cause a serious traffic hazard that would warrant a refusal of permission.
- Whilst a bin lorry could access the lane the length of the laneway along which bins would have to be brought to Clontarf Road is not considered excessive.

The above response was circulated for comment.

The submission by Hughes Planning on behalf of Paul Keogh and David Conlon states that their concerns regarding the width of the lane and inadequate sightlines have not been overcome.

## 7.0 Assessment

I consider that the issues arising can be assessed under the following headings:-

- Adequacy of lane and access arrangements
- Residential Amenities
- Appropriate Assessment

### 7.1. Adequacy of Lane and Access Arrangements

With regard to access arrangements the Planning Authority determined that the access serving the mews development was substandard on the basis that it did not meet the requirements set out in the development plan which requires all mews developments to be a minimum of 4.8 metres in width or in the case where no footpaths are provided, 5.5 metres in width. The inadequacy of the sightlines onto Clontarf Road were also referenced.

The lane from which access is proposed is approx. 130 metres in length ranging in width from 3.5 metres at its junction with Clontarf Road to 5.6 metres immediately to the south of the appeal site. It is a shared surface with no footpath. The lane largely provides rear access to the properties that front onto Castle Avenue to the east and Haddon Road to the West. 1 no. mews house (1A Castle Avenue) is accessed from the lane. I refer the Board to drawing no. 19\_1908/01 which details the lane dimensions.

The lane is to be widened to 5.5 metres along the site frontage as part of the development. Should this be replicated with the development of other sites along the laneway, the laneway will be substantially wider, however the pinch point is the c.60 metres from its junction with Clontarf Road where the lane bounds the Haddon Court Apartments to the west and Alevrno Apartments to the east, both which are served by accesses from Haddon Road and Castle Avenue respectively. As a consequence there is little potential for the lane to be widened at this point. The width of between 3.5 metres and 4.3 metres does not meet the minimum requirement of 4.8 metres as set out in section 16.10.16(i) of the development plan and falls materially short of the 5.5 metre requirement where no verges or footpaths are provided. The substantive concern is the inability to allow for two way vehicular movements. The potential scenario where vehicles have to stop on Clontarf Road to

allow for exiting vehicles could give rise to obstruction to road users and traffic hazard. The deficiency in the width at its junction with Clontarf Road is also highlighted by the swept path analysis for emergency vehicles to access same.

Whilst it may be argued that the additional vehicular movements would be no greater than those arising from the existing vehicular use generated by Nos. 5 and 6 Castle Avenue I submit that the said use of the lane is secondary in nature. It would, in my view, create an undesirable precedent for similar types mews developments which would generate additional pedestrian and cycling trips along this narrow laneway.

The issue of adequacy of sightlines at the junction of the lane onto Clontarf Road has also been raised. The entrance to either side is bounded by walls requiring a vehicle to pull forward onto the footpath to allow for sightlines. The agent for the applicant is of the view that a relaxation in the 'x' distance from 2.4 to 2 metres is appropriate in this instance due to the low vehicular movements on the lane and that speed levels were low on Clontarf Road. This is disputed by the observers. As noted on day of inspection vehicles travelling in a westerly direction were travelling at/close to the speed limit although the traffic lights at the junction of Castle Avenue would assist in slowing speeds on approach. On this basis I submit that the relaxation as accounted for could be considered acceptable.

## **7.2. Residential Amenities**

The proposal entails the provision of 2 no. mews dwellings each with a floor area of c.173 sq.m. incorporating a design which would be subservient to the main dwellings onto Castle Avenue which are protected structures. The dwelling design is generally acceptable. Issues in terms of screening to the 1<sup>st</sup> floor balconies to protect the amenities of property on the opposite side of the lane can be addressed by way of condition. The Conservation Officer's concerns in terms of the protection of the boundary walls including the omission of the basement levels and the conditions recommended to address same are also noted.

Both the existing and proposed dwellings are each to be served by adequate private open space with 1 no. parking space per dwelling proposed.

The application is accompanied by a sunlight/daylight analysis which was amended by way of further information to which due regard is had to the rear garden area of the dwelling to the north. It currently does not receive two hours of sun over half of

its area on 21<sup>st</sup> March due to overshadowing arising from the high south boundary wall and garage structure to the rear of No.6 Castle Avenue and buildings within its site boundary. The sunlight it will receive will be altered by the proposal shifting to later in the afternoon. The existing Annual Probable Sunlight Hours at No. 7A Castle Avenue is calculated at 88%. With the development in place it would be 65%.

I submit that the impacts arising need to be balanced against the need to develop such type sites for housing. Such strategies obviously have the potential to increase levels of overshadowing on adjoining property particularly in tightly grained urban areas. I submit that the increased overshadowing that would arise is acceptable in allowing for the development of the site and would not justify a refusal of permission.

### **7.3. Appropriate Assessment**

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, 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**

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations.



## 9.0 Reasons and Considerations

Having regard to the restricted width of the laneway and access point onto Clontarf Road it is considered that the proposal would give rise to pedestrian and vehicular conflict, would therefore endanger public safety by reason of traffic hazard, would be contrary to Section 16.10.16(l) of the current Dublin City Development Plan which requires that potential mews laneways have a minimum carriageway of 4.8 metres in width and would set an undesirable precedent for further mews development along the lane. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**June, 2022**