



An  
Bord  
Pleanála

## Inspector's Report ABP-312503-22

### Development

Permission to construct a boundary wall at the rear between, this is an application to amend conditions no's 1 & 2 of Permission D09A/0523 and D09A/0523/C1, to avoid excessive encroachment into the existing curtilage of the protected structure.

### Location

3 Elton Mews, Elton Court, and 3 Elton Park, Sandycove, Co. Dublin.

### Planning Authority

Dun Laoghaire Rathdown County Council.

### Planning Authority Reg. Ref.

D21A/0960.

### Applicant(s)

Robert O'Flynn.

### Type of Application

Permission.

### Planning Authority Decision

Refuse.

### Type of Appeal

First Party.

### Appellant(s)

Robert O'Flynn.

### Observer(s)

None.

**Date of Site Inspection**

26 March 2022.

**Inspector**

Stephen Rhys Thomas

## 1.0 Site Location and Description

- 1.1. The appeal site is located at Elton Court, a private laneway leading to an extensive mews type development to the rear of a number of protected structures along Elton Park, Castle Park Road and Breffni/Sandycove Road.
- 1.2. The wider area around Elton Park, Castle Park Road and Breffni/Sandycove Road, is characterised by large and attractive detached, semidetached and terraced housing from the late nineteenth century, many of which are protected structures. The subject site concerns a mews type house to the rear of a large terraced property at Elton Park. The mews home has been constructed and a temporary wooden boundary has been erected on the site. This boundary separates the two gardens.

## 2.0 Proposed Development

- 2.1. Permission is sought to:
  - Construct a new boundary wall of granite between 3 Elton Park and 3 Elton Mews.
  - Amend conditions 1 and 2 of permission D09A/0523 and D09A/0523/C1.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority decided to refuse permission for a single reason:

1. Having regard to the Objective A zoning of the site, and policies and objectives as set out in the 2016-2022 Dún Laoghaire-Rathdown County Development Plan, it is considered that the development would result in an inadequate quantum of private open space provision for the residents of the mews dwelling. The proposed development would be contrary to the requirements of Section 8.2.3.4(x) Mew Lane Development and Section 8.2.8.4(i) Private Open Space for Houses of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022, and would therefore be contrary to the proper planning and sustainable development of the area.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The basis of the planning authority decision includes:

Presentation of the County Development Plan standards with regards to mews lane developments, and architectural heritage. Identification of the area of the site and that the proposed residential development is acceptable. It was considered that there were no visual impacts from the proposed development and no adverse effects to the protected structure. The new boundary wall would leave 80s qm of private amenity space for the larger dwelling and only 25 sqm for the subject site. Even though the amenity space would be of good quality it would fall below the development plan requirement for 48 sqm for a 1-2 bedroom houses, including mews lane development. The design of the space is not innovative and so no relaxation of area can apply. The recommendation was to refuse permission for a single reason on this basis.

### **3.2.2. Other Technical Reports**

Drainage Planning – no objection.

Conservation Division – no heritage objections, specific and technical condition recommended.

## **3.3. Prescribed Bodies**

Responses were sought from the DAU, Arts Council, An Taisce, Fáilte Eireann, Heritage Council, but none received.

## **3.4. Third Party Observations**

None.

## **4.0 Planning History**

### **Appeal Site**

D09A/0523/E – Extension of permission for a two storey mews dwelling with car park space. Relevant conditions of the original permission include:

1. The development to be carried out in its entirety in accordance with the plans, particulars and specifications lodged with the application, as amended by Additional Information received on 01/ 10/ 2009, save as may be required by the other conditions attached hereto.

REASON: To ensure that the development shall be in accordance with the permission and that effective control be maintained.

2. Prior to the commencement of development, the applicant shall submit revised drawings for the written agreement of the Planning Authority which illustrate that the area of private open space to the rear of the proposed dwelling shall not be less than 48-sq.m.

REASON: In order to ensure that the proposed development is as per that development permitted under D00A/0656 and in the interest of residential amenity.

**Nearby Site:**

ABP-304234-19 – Permission for the construction of two dwellings at the rear of Glencormac, 1 Elton Park, Sandycove. July 2019

## **5.0 Policy Context**

### **5.1. Ministerial Guidelines**

Architectural Heritage Protection Guidelines for Planning Authorities (2004/2011)

### **5.2. Development Plan**

#### **Dun Laoghaire-Rathdown County Development Plan 2016-2022**

I note that the Draft County Development Plan 2022-2028 was adopted by the Elected Members at a Special County Development Plan meeting held on the 10 March 2022. The adopted Plan will come into force 6 weeks after it was adopted on

the 21 April 2022. I have assessed the proposed development under the Dun Laoghaire-Rathdown County Development Plan 2016-2022, the operative plan.

The site is zoned under Land Use Objective 'A' with a stated objective 'to protect and/or improve residential amenity'.

Relevant Sections / Policies:

Section 8.2.3.4 Additional Accommodation in Existing Built-up Areas, x) Mews Lane Development

Where the Planning Authority accepts the principle of residential development on a particular laneway, the following standards will generally apply:

- Each dwelling shall generally have a private open space area of not less than circa 48 sq.m. exclusive of car parking area. A financial contribution in lieu of public open space provision may be required.

Reduced standards from the above may be acceptable, particularly in cases of conversion of existing two storey structures in sound condition and of particular architectural and/or townscape value.

Section 8.2.8.4: Private Open Space – Quantity

- For 1 or 2 bedroom houses a figure of 48 sq.m. may be acceptable in cases where it can be demonstrated that good quality usable open space can be provided on site.

In instances where an innovative design response is provided on site, a relaxation in the quantum of private open space may be considered on a case by case basis.

### **5.3. Natural Heritage Designations**

5.3.1. None relevant to this suburban site.

## **6.0 Screening for Environmental Impact Assessment**

6.1. The subject development is for a boundary wall between houses, falling well below both of the applicable thresholds for mandatory EIA, as set out at Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended).

6.2. In respect of sub-threshold EIA, having regard to the limited nature and scale of the proposed development, which comprises the construction a boundary wall between houses on serviced land, it is considered that 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.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

7.1.1. The grounds of the first party appeal to can be summarised as follows:

- In order to preserve the rear garden integrity of 3 Elton Park (a protected structure), a revised boundary wall location is suggested. It should be noted that the mews development was permitted before 3 Elton Park was placed on the RPS.
- An out of sync boundary wall with other protected structures at 1-4 Elton Park could harm the integrity of those protected structures too.
- 25 sqm of private amenity space is considered adequate for the mews house, when 80 sqm would be in more continual use by a family who require more space and would better suit the larger of the two houses.
- Other townhouses at Elton Court do not achieve the 48 sqm private amenity space standard. A map is enclosed to show areas of private amenity space below 48 sqm, colour coded orange.
- There will be impacts on sunlight to the protected structure if the boundary wall is moved closer to the rear of 3 Elton Park.

### 7.2. Planning Authority Response

7.2.1. None.

### 7.3. Observations

7.3.1. None

## 8.0 Assessment

8.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Principle of Development
- Residential Amenity
- Protected Structure

### 8.2. Principle of Development

8.2.1. Zoning - Under the provisions of the Dún Laoghaire-Rathdown County Council County Development Plan 2016 – 2022 the appeal site is wholly contained within an area zoned Objective A where the objective is to protect and / or improve residential amenity and where residential development is permitted in principle. In addition, I note that permission has already been granted by the planning authority on the site for a mews dwelling and boundary wall, D09A/0523 and D09A/0523/E both refer. Accordingly, the principle of a domestic related development such as a wall is acceptable in principle subject to the acceptance or otherwise of site specifics / other policies within the development plan and national planning guidance.

8.2.2. The planning authority have not raised any issue with the principle of development but wish to apply a private amenity standard of 48 sqm to the rear garden of the dwelling in question. On balance, I am entirely satisfied that the principle of a residential form of development such as a boundary wall at this location is acceptable, the detail of which is examined in the following sections of this report.

### 8.3. Residential Amenity

8.3.1. The single reason for refusal advanced by the planning authority is as follows:

*Having regard to the Objective A zoning of the site, and policies and objectives as set out in the 2016-2022 Dún Laoghaire-Rathdown County Development Plan, it is considered that the development would result in an inadequate quantum of private open space provision for the residents of the mews dwelling. The proposed development would be contrary to the requirements of Section 8.2.3.4(x) Mew Lane Development and Section 8.2.8.4(i) Private Open*



*Space for Houses of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022, and would therefore be contrary to the proper planning and sustainable development of the area.*

8.3.2. The planning authority are concerned that the repositioned boundary wall between 3 Elton Park and 3 Elton Mews would result in a substandard form of private amenity space and would be contrary to Mews Lane Development and Private Amenity Space standards for houses. The standards for private amenity space of a 1-2 bedroom house in the current development plan amounts to 48 sqm. The proposed development would result in 25 sqm and the planning authority are not satisfied with this allowance, stating that though it is of some quality (to the rear of the dwelling) it is not of such an innovative standard to be considered acceptable. The appellant disagrees and has advanced a number of reasons why a 25 sqm private amenity space for the mews dwelling is acceptable and they include; to preserve the protected structure on site, that a small patio garden is adequate for the intended occupants of the mews dwelling and other related matters.

8.3.3. Throughout Chapter 8 of the development plan various criteria are taken into account to achieve high standards of design and residential amenity. Specifically, section 8.2.3 sets out guidance on qualitative, quantitative, and development management criteria for residential developments. These requirements will form the basis for evaluating planning applications for new residential developments with a view to improving the quality of housing development in Dún Laoghaire-Rathdown. I note that there are specific guidelines in relation to mews lane development and private amenity space, both state a requirement for at least 48 sqm. Importantly, these guideline requirements are tempered by phrases such as:

‘Reduced standards from the above may be acceptable, particularly in cases of conversion of existing two storey structures in sound condition and of particular architectural and/or townscape value’ – In relation to mews type development.

‘In instances where an innovative design response is provided on site, a relaxation in the quantum of private open space may be considered on a case by case basis’ – in relation to all rear private amenity spaces for houses.

8.3.4. To set a context, I note that the orientation of the mews type house is south west facing to the rear and that this would likely encourage good levels of light to reach

habitable rooms and provide a sunny aspect to the private amenity space. On the day of my site visit I observed that a timber screen has been erected and separates the two garden areas. There is nothing particularly novel or innovative about the rear private amenity space as it appears, it is simply a terraced area with a good south westerly aspect. The scale of the mews house on site is compact, like many other similar developments in the area. I note the map submitted by the appellant that shows other diminutive rear gardens associated with development at Elton Court. Though not directly comparable, I do note that many of these houses have small back gardens and some do not share the enviable south westerly aspect that the appeal site enjoys.

8.3.5. I am satisfied that the optimal and sunny aspect that the appeal site enjoys is reason enough to accept a smaller than development guideline area of 48 sqm. In addition, I can accept that a larger garden assigned to 3 Elton Park would not in itself injure the architectural value of the protected structure. I appreciate that a standard of some form is required to ensure that new developments deliver acceptable levels of private amenity space. In this instance, there are other matters at play, the orientation and aspect of the mews dwelling and the nearby protected structure. I am satisfied that residential amenity will not be unduly impacted upon by the provision of a rear private amenity area of 25 sqm. This is due to the south westerly aspect that the dwelling enjoys. Finally, I note that there are publicly accessible open spaces in the wider area such as Hyde Park, Hudson Park and coastal amenities. These are all factors that add to the overall levels of residential amenity that occupants can hope to enjoy.

8.3.6. I do have a minor concern that the 2.2 metre high wall proposed would be out of scale with the existing granite boundary walls already on site. In addition, I am of the opinion that a 2.2 metre high granite wall could have a negative consequence on what would otherwise be a good south facing garden. In that regard, I recommend that the new boundary wall be no higher than 1.8 metre in height, the benefit of which would be twofold; a more gracious extension of the existing boundary walls between 2, 3 and 4 Elton Park and importantly a high quality rear amenity space for 3 Elton Court. An appropriate condition should be attached.

#### 8.4. **Protected Structure**

- 8.4.1. In terms of the setting and context of the protected structure, the planning authority have no difficulty with the design of the wall or its location, the conservation officer's report refers. The appellant has made a lengthy case with regard to the protection of the setting and context of the protected structure and how the new location of the wall will help with this outcome. I tend to agree, though I think it is not critical that the new boundary wall should be located at any particular location. However, as already mentioned, I do not think that a 2.2 metre high wall is appropriate in this garden area. I take the Council's Conservation Officer's point of view and add my own concern about the method of construction, materials and height, these can easily be addressed by an appropriate condition.
- 8.4.2. As noted by the planning authority, there will be no visual amenity issues arising from the proposed development and no impact to the protected structure on the site. I am satisfied that the integrity of the protected structure on the site will not be adversely impacted by the proposed development subject to an appropriate condition in relation to construction methodology and materials to be used.

#### **8.5. Appropriate Assessment.**

- 8.5.1. Having regard to the minor nature and scale of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

### **9.0 Recommendation**

- 9.1.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out below:

## 10.0 Decision

- 10.1. Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

## 11.0 Reasons and Considerations

Having regard to the nature, extent and design of the development proposed, to the general character and pattern of development in the area and to the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of property in the vicinity and would not be out of character with the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 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.

Reason: In the interest of clarity.

2. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, the following:

- (a) A Method Statement for the granite rubble stone wall in order to ensure consistency of finished treatment with the existing boundary walls around the site.

(b) Revised drawings for the boundary wall that show a height no greater than 1.8 metres.

Reason: In order to protect the character of the protected structure.

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Stephen Rhys Thomas  
Senior Planning Inspector

28 March 2022