



An
Bord
Pleanála

Inspector's Report ABP 312620-22

Development	Demolition of existing outbuilding, construct two storey dwelling. Protected Structure.
Location	Rear of 24 Cambridge Terrace, York Road, Dun Laoghaire, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D21A/0965
Applicant	Robert Gilmartin
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	1 st Party v. refusal
Appellant	Robert Gilmartin
Observers	<ol style="list-style-type: none">1. P. & C. Chapple2. Dermot Brangan & Helen Browne3. Jonathan & Victoria Dalton
Date of Site Inspection	15/06/22
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site, which has a stated area of 0.04341 hectares, comprises part of the rear garden of No. 24 Cambridge Terrace which fronts onto York Road in Dun Laoghaire. The dwelling is a protected structure. The rear garden and off street vehicular parking is accessed from Knapton Lane which is approx. 167 metres long. Access to the lane is from Knapton Road along which vehicular movements are relatively light.

The lane varies in width and provides access to approx. 7 mews dwellings in addition to providing rear vehicular and/or pedestrian access to dwellings fronting onto York Road to the east and Knapton Road to the west.

2.0 Proposed Development

Permission is sought for demolition of existing outbuilding and construction of a two storey, two bedroom dwelling with access from Knapton Lane. The dwelling has a stated area of 94.4sq.m. The dwelling design is so that the 1st floor extends over 2 parking spaces. The lane is unsurfaced.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for 1 reason.

The access laneway is considered to be of an unacceptable standard to cater for an intensification of development and traffic likely to be generated. The proposal is premature pending the upgrade of the lane and would endanger public safety by reason of traffic hazard or obstruction of users. It would not be in compliance with section 8.2.3.4 (x) Mews Lane Development of the 2016 county development plan.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Area Planner's report notes:

- Having regard to the zoning objective and the Council policy to densify existing built up areas it is considered that additional residential development at this location would be acceptable in principle.
- The laneway is of an unacceptable standard to cater for an intensification of development and traffic.
- The upgrade of the laneway to acceptable standards will first have to be addressed by grant of a separate planning application before any further intensification of mews development is permitted.
- It would be contrary to section 8.2.3.4 (x) of the development plan which refers to mews development.
- The proposed gable projection is considered acceptable given the context and existing building lines.
- The proposal is to provide a balcony serving bedrooms, along the laneway which is approx. 6.3 metres wide. There are concerns that a grant of permission would set an undesirable precedent in terms of undue overlooking.
- The matter of rear garden depth of the proposed mews and the protected structure are generally acceptable, subject to further clarity regarding apparent discrepancies relating to quantum of open space indicated.

A refusal of permission for one reason recommended.

3.2.2. Other Technical Reports

Transportation Planning in a report dated 02/12/21 recommends a request for further information on the improvement of the laneway to standards suitable to be taken in charge, provision of a car parking space and width of vehicular entrance.

Conservation Division in a report dated 15/12/21 has no objection subject to construction of a party wall between the proposed dwelling and the protected structure and increase in the open space for the latter.

Drainage Planning in a report dated 03/12/21 has no objection subject to conditions.

3.3. Prescribed Bodies

Irish Water in a report dated 04/12/21 has no objection subject to conditions.

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 relate to unsuitability of lane, building line, impact on amenities of adjoining property, impact on setting and character of protected structures, boundary wall proposals, car parking, potential use of dwelling, impact on development potential for adjoining sites, drainage and accuracy of documentation.

4.0 Planning History

ABP 303916-19 (D18A/0530) – permission refused on appeal for the upgrading of the existing mews laneway on the basis that sufficient detail on the sewer connection was not provided or that the foul and surface water network proposed is technically usable.

5.0 Policy Context

5.1. Development Plan

Note: Since the planning authority's notification of decision to refuse permission the new Dun Laoghaire Rathdown Development Plan, 2022, has been adopted and has come into force.

Dun Laoghaire Rathdown Development Plan, 2022

The site is within an area zoned A, the objective for which is to provide residential development and improve residential amenity while protecting the existing residential amenities.

Mews development is acceptable in principle along the lane as delineated on Map 3.

Policy Objective PHP22 - to facilitate measured and proportionate mews lane housing development in suitable locations.

Mews development will be strictly limited to specific locations where it can be demonstrated that proposals respect and do not injure the existing built form, scale, character, finishes and heritage of the area, subject to both the provisions of legislative heritage protection and the protection of the built and natural heritage prescribed in this Development Plan. Many of the existing mews lanes (historic stable lanes) in DLR are capable of providing interesting and attractive residential environments. Their development could make a useful, if limited, contribution to the overall housing stock, help prevent the emergence of obsolete backland areas, and assist densification of established areas in accordance with the principles of sustainable development. (Refer also to Section 12.3.7.10).

The design and finish of mews lane developments should have regard to site specific parameters and reflect the characteristic features of the surrounding area taking into account local materials as appropriate. The Council will evaluate development proposals in accordance with the criteria set out in Chapter 12 Development Management, Section 12.3.7.10.

Chapter 12 – Development Management

12.3.7.10 Mews Lane Development

The principle of mews development will generally be acceptable when located on a lane that:

- Is already developed to such an extent that further development would have to be regarded as infill.
- Is already adequately serviced and surfaced from the site to the public road, with a suitable underlying base to cater for the expected traffic volumes.
- Has a legally acceptable agreement between owners or interested parties who intend to bring the laneway to standards and conditions - particularly in terms of services, road surfacing and public lighting - suitable to be taken-in-charge by the Council. The onus will be on the applicant(s) to demonstrate that they have a consensus of owners or interested parties.

- Where the Council is likely to be able to provide services and where owners can be levied to allow the Council to service the sites.
- Has been identified as being suitable for such development on the County Development Plan Maps or within a Local Area Plan.

The principle of mews development on a particular laneway will not generally be accepted where:

- The length of all or most of the adjoining rear gardens on the side of the lane concerned is less than 25 metres or,
- Where, particularly in a commercial area, the lane is likely to be required by the frontage buildings for access or the area adjoining the lane is required for expansion.

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

- Development will be confined to single units in one or two storeys of modest size and the separation distance between the rear façade of the existing main structure (onto the front road) and the rear mews structure should normally be a minimum of 20 metres and not less than 15 metres, or not less than 22 metres where first floor windows of habitable rooms directly face each other.
- Setting back of dwellings and boundary walls may be required dependant on existing building lines, lane width, character and parking/access.
- Dwellings and boundary walls may be required to reflect the scale, height, materials and finish of existing walls and buildings, particularly where old coach houses and two storey structures are involved.
- All parking provision in mews laneways should be in off-street garages, integral garages (car ports), forecourts or courtyards, and conditions to 'de-exempt' garage conversions will normally be attached. At least one off-street parking space per dwelling will generally be required. Where two spaces can be reasonably accommodated these should be provided. Part set-backs of frontage for on-street parallel parking may be considered depending on lane width and structure types.

- 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.
- Where dwellings are permitted on both sides of a lane, habitable room windows must be set out to minimise direct overlooking of each other where less than 9 metres apart.
- Vehicular entrance widths shall be a minimum but sufficient to provide for proper vehicular turning movements allowing for laneway width and for pedestrian visibility.

Minimum lane width requirements are:

- Up to 6 dwellings: Adequate vehicular access of a lane width of circa 3.7 metres must be provided to the proposed dwellings - 3.1 metres at pinch points – to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.
- Up to 20 dwellings: Width of 4.8 metres subject to a maximum length of 300 metres. Short lengths of narrow width may be acceptable where there will be no frontage access to those lengths.

All mews laneways will be considered to be shared surfaces and footpaths need not necessarily be provided. If external street/security lighting is warranted, only a minimal level and wall-mounted type(s) may need to be provided. Opportunities should be undertaken to improve permeability and connectivity to and from the development as part of the Development Management process.

Each proposed mews lane unit will be assessed having regard to site specific conditions. 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.

Applications should clearly state the requirements and method statement for bin storage and collection, car parking, access and similar details.

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by CDP Architecture on behalf of the 1st party appellant, which is accompanied by supporting plans, can be summarised as follows:

- The dwelling will provide suitable accommodation for the applicant who has a medical condition and is in need of care.
- The 2016 development plan identifies Knapton Lane as one of a small number of laneways in the county which are designated for mews housing development. The proposal would be in accordance with national and local policy with regard to increase in housing stock.
- Mews development has been granted in close proximity to the site.
- The view that the proposal would see an intensification of development and traffic is unfounded. Car parking for No.24 Cambridge Terrace has always been to the rear off Knapton Lane within the existing outbuilding. It accommodates 2 parking spaces. The proposed mews dwelling does not propose any additional parking spaces. The lane and parking area have been used since 1958 (affidavit attached).
- The parking spaces are to be shared between the proposed dwelling and No. 24 Cambridge Terrace which is to be occupied by his sister. A proposed link between the existing and proposed dwellings will allow for this to work. The existing pedestrian access route through the garden is to be retained. No pedestrian access is being provided from Knapton Lane
- Whilst permission was refused for the upgrading of the lane under ref. ABP 303916-19 (D18A/0530) on the basis that sufficient detail on the sewer connection was not provided. The foul and surface water network for the proposed development will be discharged via No.24 Cambridge Terrace to York Road. This is acceptable to the Drainage Department. Irish Water has no objection. The view that the proposal is premature is unfounded.
- SuDs is proposed on the site.

- The quantum of private open space serving the new building is 53.9 sq.m. (updated drawings attached).

6.2. Planning Authority Response

None.

6.3. Observations

1. P. & C. Chapple
2. Dermot Brangan & Helen Browne
3. Jonathan & Victoria Dalton

The submissions can be summarised as follows:

- The planning authority has been consistent in its approach to mews development on the lane.
- The laneway is not to an acceptable standard for additional traffic and intensification of development. It is not adequately serviced or surfaced. There is no reference to a legal agreement between owners or interested parties who intend to bring the laneway up to a suitable standard.
- The connection of services via the main dwelling in Cambridge Terrace is not considered good practice. Their placement through attendant grounds of a protected structure requires assessment.
- The water main shown on the plans accompanying the appeal is privately owned. No permission has been sought or consent given to connect to same.
- The dwelling would give rise to overlooking, overshadowing and loss of privacy. The balcony should be omitted.
- The building line does not match that existing on adjoining sites. It would set an undesirable precedent and would be overbearing.
- The adjoining site (No.25 Knapton Lane) does not have a two car parking space as denoted on the plans.
- Illegal parking already arises on the lane.

- A clear distinction is made on the plans between the protected structure, its garden and the new mews and its garden. They are not functionally or physically linked within the planning application drawings. There is no evidence of a link between the two gardens which would accommodate the applicant's sister's use of one of the car parking spaces. This was not referenced in the planning application.
- The main house, in retaining access to the land, creates the potential for on lane parking for that property.
- The potential conversion of the unit to 2 apartments is a valid concern.
- The applicant has not addressed the issue of the shared boundary walls.
- The impact on adjoining protected structures was not assessed.
- There are discrepancies in the plans accompanying the application.
- No details of proposed bin storage or waste collection arrangement have been provided.
- No corroborating evidence of applicant's claim in terms of health or how the design meets his needs.
- Validity of the application is queried. Letter of consent from the applicant's sister to lodge the application should have been required.
- Absence of details as to adequacy of sightlines onto the lane and safe egress. One parking space only is required.

7.0 **Assessment**

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

- Principle of development
- Adequacy of laneway and access
- Residential Amenities
- Other Issues

- Appropriate Assessment

7.1. Principle of Development

Since the planning authority's notification of decision to refuse permission and the lodgement of the appeal the 2022 Dun Laoghaire Rathdown Development Plan came into force and to which due regard will be had in this assessment. I note that the provisions cited below are largely the same as those contained in the previous development plan and referenced in the planning reports on the file.

The site is within an area zoned A, the objective for which is to provide residential development and improve residential amenity while protecting the existing residential amenities. It is accessed via Knapton Lane along which mews development is acceptable in principle as delineated on Map 3 accompanying the development plan. It is one of a limited number in the county so designated. Policy Objective PHP22 seeks to facilitate measured and proportionate mews lane housing development in such locations where it can be demonstrated that proposals respect and do not injure the existing built form, scale, character, finishes and heritage of the area, subject to both the provisions of legislative heritage protection and the protection of the built and natural heritage prescribed in the development plan.

As noted in the said policy objective such mews development could make a useful, if limited, contribution to the overall housing stock and assist densification of established areas in accordance with the principles of sustainable development.

The evaluation of such development proposals is required against the criteria set out in section 12.3.7.10 of the development plan and to which I shall have regard in my assessment below.

7.2. Adequacy of Laneway and Access

Knapton Lane from which access is proposed is approx. 168 metres long, c.6 metres wide and is unsurfaced. It provides access to approx. 7 dwellings in addition to rear vehicular/pedestrian access to dwellings fronting onto York Road to the east and Knapton Road to the west. Vehicular movements were noted to be minimal on day of inspection with on-lane parking noted. The lane is straight save for a bend along its southern extent. Sight lines at its junction with Knapton Road are noted to be good.

As noted above permission was previously sought for the upgrading of the laneway including its surfacing, provision of turning area and lighting under ref ABP 303916-19 (D18A/0530). Permission was refused on the basis that sufficient detail on the sewer connection was not provided or that the foul and surface water network proposed was technically usable. I shall address site servicing below.

I submit that the lane is of an adequate width to accommodate mews development and exceeds the development plan requirements in terms of the minimum lane width of 4.8 metres. The majority of the houses with access from the lane have in-curtilage parking. The appeal site already provides for off street parking serving No. 24 Cambridge Terrace with an affidavit accompanying the appeal stating that the property has enjoyed vehicular access via the lane since 1958.

I submit that the current lane condition and surface, of itself, does not give rise to a traffic hazard or obstruction of road users as referenced by the planning authority in its notification of decision to refuse permission. It is a low vehicle, low speed environment with many opportunities for vehicles to pass. Whilst the proposal does not comply with the requirement that the lane be serviced as per section 12.3.7.10 of the current development plan I submit that an additional mews dwelling can be accommodated on the lane and would not raise such public safety concerns as to warrant a refusal of permission.

With respect to the parking, 2 no. spaces are proposed, 1 to serve the new dwelling and the 2nd to serve the original dwelling fronting onto York Road with a pedestrian access between the properties providing access to same. On street vehicular parking is prohibited on York Road. I consider the arrangement as proposed to be acceptable.

7.3. Residential Amenities

The lane is characterised by a mix of dwelling types with varying setbacks from the lane. The proposal is for a two storey dwelling with under croft parking for two cars. As noted above a pedestrian access is proposed allowing for connection to No.24 Cambridge Terrace with one of the spaces to be retained for use by same.

An existing 2 storey mews dwelling bounds the site immediately to the north. The building line of the 1st floor element of the proposed dwelling would be forward of same by approx. 4 metres. Subject to the omission of the balcony to the front

elevation from which overlooking could potentially arise I consider that the proposed layout would not detract unduly from the said property's amenities as to warrant a refusal of permission.

With the omission of the balcony and taking into consideration the width of the lane at 6 metres a setback of 8 metres would be maintained to the other side of the lane. The property immediately opposite forms part of the long rear garden of the dwelling which fronts onto Knapton Road. There is a mews dwelling to the north-east. It is an inevitable consequence that some overlooking into adjoining gardens will take place where infill development of this nature is proposed. In such location where mews development is acceptable in principle this is considered acceptable and would not prejudice the development potential of lands opposite.

In terms of the dwellings fronting onto Cambridge Terrace the dwelling would be subordinate in height and scale to No. 24 with separation distances of over 22 metres between opposing upper floor windows to be retained. A distance of over 17 metres is retained to the 1st floor window in the 2 storey return to the rear of No. 23 with distances of over 22 metres retained to the windows in the rear elevation. As clarified in the grounds of appeal the private open space serving the new dwelling would be 53.9 sq.m. with that serving the original dwelling being 79 sq.m. These are acceptable and will afford each dwelling an appropriate level of private amenity space.

Having regard to the foregoing I submit that the proposal is acceptable in terms of design and would not have a significant adverse impact on the residential amenities of adjoining property.

7.4. Other Issues

An observer to the appeal outlines concerns regarding the servicing of the site with specific regard to the previous refusal for the upgrading of the lane on insufficient information on services along same.

In this application the proposed mews dwelling is to connect to sewerage and surface water on York Road through No. 24 Cambridge Terrace. SuDs are proposed within the site boundary. The issue of water connection has been raised by observers contending that it is not an Irish Water asset and that the applicant has not sought the relevant consents to connect to same. I note that Irish Water and the

Drainage Division of the local authority have no objection to the proposed arrangements as provided with the application. The applicant should be advised of section 34(13) of the Planning and Development Act, 2000, as amended that a person is not entitled solely by reason of a permission to carry out any development.

The above legislative provisions would also apply with regard to proposals, if any, in terms of alterations to boundary walls along shared boundaries with 3rd party properties.

Bin storage can be accommodated within the site. It is reasonable to assume that collection arrangements would be the same as those prevailing for the other mews houses on the lane.

The nature and extent of the development before the Board for adjudication is for a 2 storey 2 bedroom dwelling, only. Potential subdivision to multiple units would be subject to a prior grant of permission. The discrepancies in the plans pertaining to the absence of the roof lights in the section drawings and absence of pedestrian connection to No. 24 Cambridge Terrace in the rear garden as referenced by an observer are considered to be minor. The plans and drawings are sufficient to allow for a full and proper assessment of the proposal. In addition it is considered that the applicant has sufficient interest to make the application.

7.5. Appropriate Assessment

Having regard to the nature and scale of the proposed development and the 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 will 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 granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the zoning provisions for the site to be accessed from Knapton Lane along which mews development is acceptable in principle in the current Dun Laoghaire- Rathdown County Development Plan 2022 and to the design and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the amenities of the area or property in the vicinity, would not adversely affect the character of the neighbouring Protected Structures, would be acceptable in terms of pedestrian and traffic safety and would not be prejudicial to public health. The proposed development 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 as amended by the plans and particulars received by An Bord Pleanála on the 1st day of February 2022, 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. The 1st floor balcony to the front elevation of the dwelling shall be omitted. Revised plans and drawings with the necessary amendments shown thereon shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of protecting the amenities of property in the vicinity.

3. Details of the proposed rear boundary treatment and pedestrian access therein shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of clarity and residential amenity.

4. Details of materials, colours and textures of all external finishes to the proposed mews dwelling shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

7. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or 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.

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.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

9. 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. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

11. 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.

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.

Pauline Fitzpatrick
Senior Planning Inspector

July, 2022