



An
Bord
Pleanála

Inspector's Report

ABP-313004-22

Development	Demolition of sheds, subdivision of site, construction of 2 houses and all associated site works.
Location	63, Rathmines Road Upper, Rathmines, Dublin 6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4133/21
Applicant(s)	Carol Underwood & Patricia Hussey.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Two Number Third Party
Appellant(s)	1. Lisa Casey & Fabio Fioravante 2. Caitriona and Peter Connolly
Observer(s)	None
Date of Site Inspection	7.10.2022
Inspector	Fiona Fair

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	8
5.3. EIA Screening	8
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Applicant Response	9
6.3. Planning Authority Response	10
6.4. Observations	10
6.5. Further Responses.....	10
7.0 Assessment.....	11
8.0 Recommendation.....	14
9.0 Reasons and Considerations.....	14
10.0 Conditions	15

1.0 Site Location and Description

- 1.1. The application site is to the rear of a two-storey, period property which fronts onto Rathmines Road. The appeal site has a stated area of some 441.5 sq. m / 0.044 ha. The upper ground floor of the property at No. 63 Rathmines Road is in retail use, with the rest of the building in residential use.
- 1.2. The site to which to the application relates is to the rear of the main property and is accessed from the laneway to the rear identified as Stone Mews, which has a number of mews properties situated on the eastern side of the lane.
- 1.3. The site hosts a number of shed structures on the western side of the site. It is 10.4m wide and extends to 41.5m in length. On either side of the subject appeal site are existing mews properties. The northern neighbours are a pair of a semi-detached two storey brown brick fronted properties which are set back 9m from the front boundary and have an open front tarmac area which is used for parking. The boundary wall of this property comprises a random rubble stone wall which the sheds proposed to be demolished have been built up too. The flat roofed shed structures on the site extend the full length of the northern half of the site with the southern half of the site consisting of an access way which connects to the main property which fronts onto Rathmines Road Upper providing an opportunity for car parking.
- 1.4. On the southern boundary the mews property is stepped further forward with a setback of 7m with inward opening gates with car parking to the front. The party boundary wall also comprises a random rubble stone wall.

2.0 Proposed Development

- 2.1. Planning permission is sought for:
 - a) The demolition of the existing sheds;
 - b) The subdivision of the site and the construction of 2no. 162sqm part three-storey part one-storey semi-detached houses with three bedrooms each;
 - c) Enhancement of the vehicular entrance fronting onto Stone Mews including parking for two cars;

d) Associated site works and landscaping.

3.0 Planning Authority Decision

3.1. Decision

Grant Planning Permission subject to 14 No. Conditions. Conditions of note include:

C3. Bond

C4. The ground floor roof extension shall be a 'green' sedum roof or similar.

C5. Prior to the commencement of development, the applicant shall submit full details for the written agreement of the Planning Authority on measures to be put in place for the protection of the historic boundary walls insitu.

C7. Restricts construction noise

C9. Restricts further exempt development to the rear without planning permission.

C13. Relates to naming of the units

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's report is summarised as follows:

- The principle of providing for mews properties on the site is considered to be reasonable given the Z1 zoning of the site. The Development Plan 2016 – 2022 sets out criteria for mews dwelling.
- The proposal to site two mews properties with provision for off street car parking is considered to be acceptable and is considered to not negatively impact on the neighbouring sites or the site itself.
- It is considered that subject to compliance with conditions, the proposed development would not seriously injure the amenities of the area or property in the vicinity and therefore would be in accordance with the zoning objective and development standards of the Dublin City Development Plan 2016-2022

3.2.2. Other Technical Reports

- Transportation Report: No objection subject to condition.
- Environmental Health Section: No objection subject to condition.

3.3. Prescribed Bodies

- None received.

3.4. Third Party Observations

Two submissions were received. The issues raised are summarised as follows.

- Height is not in accordance with existing permitted development on the laneway, it should be limited to two stories.
- Concern of overshadowing and over overlooking. Additional planting along boundary may also cause negative impacts on access to sunlight
- Extent of ground floor is excessive.
- Loss of light and sense of overshadowing by the sheer scale of development proposed.
- Visibility of terrace area due to ground level difference.
- Impact on adjoining sites during construction given that the current sheds are built into the existing border wall and in relation to noise and air pollution.
- Position of the proposed buildings as further forward and impact on adjoining sites.
- Traffic nuisance during construction.
- Devaluation of adjoining sites given the scale of proposal.

4.0 Planning History

None Relevant

5.0 Policy Context

5.1. Development Plan

Under the 2016-2022 Dublin City Development Plan the site is zoned Z1 which is “To protect, provide and improve residential amenities”

Mews dwellings

16.10.16 Mews Dwellings

- 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 sqm 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 22m. 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.

5.2. Natural Heritage Designations

- 5.2.1. The South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC are located c. 3.9km from the subject appeal site.
- 5.2.2. A Stage 1 AA screening report was carried out and submitted with the application. It concludes that there is no potential for direct, indirect and cumulative impacts arising from the proposed development. No potential significant impacts are envisaged, and mitigation measures are not required to prevent impacts on the Natura 2000 network. Therefore, a Natura Impact Statement is not required.
- 5.2.3. The PA report sets out: 'Having regard to the nature and scale of the proposed development and the distance to the nearest Natura 2000 site, it is considered that the proposed development is unlikely to have a significant effect, individually or in combination with other plans or projects, on a Natura 2000 site'.

5.3. EIA Screening

- 5.4. Having regard to the nature of development comprising of two number mews dwelling in an urban area it is considered that 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.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was submitted by Lisa Casey and Fabio Fioravante, No. 2 Stone Mews and Catriona and Peter Connolly, rear 65, Stone Mews, they are summarised as follows:
- Inconvenience of building period.
 - Scale, mass and height of the dwellings proposed and its rear annex.
 - Perceived overshadowing.

- Impact upon light to No. 2 Stone Mews and to rear garden space of adjoining dwellings.
- Apex height of the proposed dwelling should match the existing Mews dwelling on the lane.
- Concern regarding demolition of sheds and structural stability and replacement of party boundary wall.
- Overlooking to the rear.
- Appeal accompanied with observation to the PA which includes photos of the wall of shed that is proposed to be demolished, the surrounding area and rear gardens.

6.2. Applicant Response

6.2.1. A First Party Response was received, it is summarised as follows:

- The 9.183m high dwellings proposed are not inconsistent with the height of properties in the vicinity.
- There is no uniform ridge line on Stone Mews
- No. 2 Stone Mews has a ridge height of 8.413m
- Adjoining rear 65 Stone Mews has a height of some 7.73m
- A key vista along the laneway is that of a 4 No. storey circulation core associated with the adjoining 5 storey apartment block.
- The two proposed dwellings read as two storey when viewed from Stone Mews and two storey with dormer attic level to the rear.
- The proposal seeks to increase densities on residentially zoned brownfield sites such as the subject site.
- A precedent has been set by the PA and ABP for similar height of development on Kenilworth Square.
- Given that the appeal site is greater in scale than adjoining plots, can accommodate the extent of the ground floor which is proposed without compromising the amenity of existing and future residents.

- The overall scale and height of the single storey rear at 3m is reasonable.
- It will not unduly impact the residential amenity of adjoining dwellings.
- The boundary wall with No. 2 Stone Mews is to be retained and the proposed Mews dwellings are entirely independent of the boundary walls.
- Condition 5 of the decision to grant planning permission requires that the wall be protected. The applicant has no issue with said condition.

6.3. **Planning Authority Response**

- None Received

6.4. **Observations**

- None Received.

6.5. **Further Responses**

6.5.1. Response received from Caitriona and Peter Connolly, it is summarised as follows:

- The observers are emotionally invested in this location.
- The proposal needs to be scaled back to a more modest mews style property.
- The proposal is too ambitious and will dwarf existing neighbouring dwellings.
- Devaluation of their property.

7.0 Assessment

7.1.1. I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the issues raised in the grounds of appeal and the observations as well as the responses submitted. I consider the principal issues pertaining to the application before the Board are as follows:

- **Height of the Proposed Dwellings**
- **Extent of Rear Ground Floor Proposed.**
- **Impact Upon Residential Amenity (Overlooking and Overshadowing).**
- **Boundary Wall**
- **Appropriate Assessment (AA)**

7.2. Height of the Proposed Dwellings

7.2.1. The proposed height of the two mews dwellings reads as two storey to the front (west) onto Stone Mews and two storey with dormer attic level over to the rear (east). The 9.183m high dwellings proposed are not, in my opinion, inconsistent with the height of properties in the vicinity. I agree that there is no uniform ridge line on Stone Mews. Regard is had to the, undisputed, stated ridge height of No. 2 Stone Mews of some 8.413m and to the adjoining Mews to the rear 65 Stone Mews with a stated, again undisputed, ridge height of some 7.73m. Having regard to the variety of roof profiles in the Mews dwellings together with the argument that the proposed ridge height does not extend significantly above the ridge height of the adjoining Mews dwellings, I do not consider that the roof profile in this instance adversely impacts on the visual amenities of the area.

7.3. Extent of Rear Ground Floor Proposed.

7.3.1. The dwellings will each measure 162sq.m which exceeds minimum size standards and provides for a good sized rear garden with a depth of 13m and a width of 4.8m giving 62sq.m of private open space.

- 7.3.2. The first party acknowledges that the extent of the ground floor is more extensive than that associated with adjoining properties. However it is successfully argued, in my opinion, that given the subject appeal site is greater in scale than adjoining plots, it can accommodate the extent of the ground floor proposed without compromising the amenity of existing adjoining residents.
- 7.3.3. The two storey with dormer attic element of the proposed dwellings is in line with the double height extent of the adjoining Mews dwellings to its north and south. The proposed single storey element extends approx. 9.5m from the rear wall of the dwellings with a width of some 4.8m, with an overall kitchen living area of 45.6 sq. m gross. The proposed single storey element has a flat roof at 3m in height.
- 7.3.4. Given the exempted development permissible within the curtilage of a house, specific regard being had to Schedule 2, Part 1, Exempted Development General Class 1 of the Planning and Development Regulations 2001, as amended, also to the recommended minimum floor to ceiling height requirement at ground floor of 2.7m for new builds and the size of the sites / plots. I consider that extent of the rear ground floor is acceptable and would not negatively impact upon the residential amenity of adjoining neighbours. I note the condition attached by the PA which de-exempts further development to the rear of the mews dwelling without a further grant of planning permission. I consider that should permission be forthcoming from the Board that this condition should be reattached.
- 7.3.5. I do not consider that the rear single storey annex would adversely impact on the residential amenities of the adjoining residents.

7.4. Impact Upon Residential Amenity (Overlooking and Overshadowing).

- 7.4.1. Given the separation distances and design I consider that the potential for undue overlooking, overshadowing or overbearing of adjoining properties has been satisfactorily addressed in the application.
- 7.4.2. The rear building line of the proposed dwellings at first floor level, is in line with the neighbouring dwellings rear building line. The front building line is in line with the neighbouring dwelling to the south and stepped in front of the neighbouring dwelling to the north.

- 7.4.3. The first party proposes two double bedrooms for each of the dwellings with en-suites at first floor. In the attic space a dormer extension is proposed which will have a width of 3.5m and a window opening of 1.5m wide. It will accommodate an additional double bedroom with en-suite.
- 7.4.4. The subject site comprises two infill Mews dwellings, with a rear garden depth of 13m, the layout of which is considered reasonable and appropriate on this urban brownfield site.
- 7.4.5. I see no evidence that the proposed dwellings would give rise to material overlooking or overshadowing of adjoining properties, such that it should be refused planning permission.

7.5. **Boundary Wall**

- 7.5.1. The existing rear party boundary walls have a stated height of some 1.08m. The overall height of the proposed rear single storey element is 3m and it has a flat roof.
- 7.5.2. Cognisance is had to the overall scale and height of the single storey rear at 3m is higher than the party wall, however, again, I consider that regard being had to Schedule 2, Part 1, Exempted Development General Class 1 of the Planning and Development Regulations 2001, as amended, this is not unreasonable.
- 7.5.3. Observers have raised concern with respect to damage to the wall and structural stability. The first party have indicated that the boundary wall with No. 2 Stone Mews is to be retained and the proposed Mews dwellings are entirely independent of the boundary walls. Also, I note Condition 5 of the decision to grant planning permission which requires that the wall be protected. The applicant has no issue with said condition.
- 7.5.4. Overall, subject to condition, it is my opinion that the removal of the sheds and the height of the single storey rear annex will not unduly impact the adjoining property or its residential amenity.

7.6. **Appropriate Assessment**

- 7.6.1. As stated above, the South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC are located c. 3.9km from the subject appeal site.

7.6.2. Having regard to the nature and scale of the proposed development, the site context (i.e. a brownfield site) and the separation distance to the European sites to the subject site, I do not consider that the proposal would be likely to significantly impact the qualifying interests of the European sites during either the construction or operational phases of development. As such, I consider that no Appropriate Assessment issues arise. In conclusion, I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

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

9.0 Reasons and Considerations

9.1.1. Having regard to the Z1 zoning objective pertaining to the site it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or of property in the vicinity, would be acceptable from a visual amenity perspective and would generally be acceptable in terms of traffic safety and convenience. The proposed development will 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.

Reason: In the interest of clarity.

2. Prior to the commencement of development the developer shall submit full details for the written agreement of the Planning Authority on measures to be put in place for the protection of the historic boundary walls insitu.

Reason: In the interests of conservation.

3. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed mews dwellings without a prior grant of planning permission.

Reason: In the interests of residential amenity.

4. 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 all intended construction practice for the development, including measures for protection of existing development and boundary walls, construction traffic routing and management, construction parking, materials storage, site compound, noise management measures and off-site disposal of construction/demolition waste.

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

5. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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 residential amenities of property in the vicinity.

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

Reason: In the interest of visual amenity.

7. The developer shall comply with the following requirements of the Transport Planning Division of Dublin City Council:

(i). Driveway entrance shall be at most 3.0m in width for each residential unit and shall not have outward opening gates.

(ii). The two vehicular entrances shall be physically separated by a permanent and fixed gate pier / wall, not exceeding 1.2 metres in height. Prior to commencement of above ground works, the applicant shall submit to the Planning Authority for written agreement a revised site layout drawing and vehicular access elevation drawing incorporating the above vehicular entrance design requirements.

(iii). Prior to commencement of development, and on appointment of the main contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, construction phasing and programme, a detailed traffic management plan, hours of working, noise and dust management measures, and off-site disposal of construction/demolition waste.

(iv). Cycle Parking to Development Plan standards shall be provided. Cycle parking shall be secure, conveniently located, sheltered and well lit.

(v). All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

(vi). The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason: In the interests of traffic safety.

8. 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.

9. The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

10. Proposals for a name and numbering scheme for the proposed development shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of urban legibility.

11. A plan containing details for the management of waste, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste, especially recyclable materials, in the interest of protecting the environment.

12. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Fiona Fair
Senior Planning Inspector

12.10.2022