



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313312-22

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| <b>Development</b>                  | Demolition of shed and boundary wall.<br>Construction of dwelling and all associated works |
| <b>Location</b>                     | Woods Way to the rear of 20 Mount Eden Road, Donnybrook, Dublin 4.                         |
| <b>Planning Authority</b>           | Dublin City Council South  |
| <b>Planning Authority Reg. Ref.</b> | 3854/21  |
| <b>Applicant(s)</b>                 | Paul & Mary Creedon  |
| <b>Type of Application</b>          | Permission   |
| <b>Planning Authority Decision</b>  | Grant  |
| <b>Type of Appeal</b>               | First Party v Condition  |
| <b>Appellant(s)</b>                 | Paul & Mary Creedon  |
| <b>Observer(s)</b>                  | None   |
| <b>Date of Site Inspection</b>      | 25 August 2022   |
| <b>Inspector</b>                    | Gillian Kane   |

## 1.0 Site Location and Description

- 1.1.1. The subject site is located to the rear of no. 20 Mount Eden Road, Donnybrook and currently comprises a single storey structure with vehicular access to the mews lane way known as Woods Way.
- 1.1.2. Woods Way has some mews developments on the eastern side (rear of Belmont Avenue), but the majority of the properties on Eden Road retain their vehicular access. A two-storey mews has been constructed at the corner of Woods Way and Mount Eden Road.

## 2.0 Proposed Development

- 2.1. On the 12<sup>th</sup> November 2021, planning permission was sought for the demolition of the existing single storey structure (32.96sq.m.) and boundary wall and the construction of a two-storey two bedroom mews property of 149.18sq.m. Details provided in the application form include:
  - Proposed plot ratio 0.78
  - Proposed site coverage 49%
- 2.1.1. The cover letter submitted with the application states that the residents of no. 20 Mount Eden Way wish to downsize to the proposed dwelling and allow one of their children to live in the main dwelling. For this reason, it is proposed to have on shared garden of 153sq.m.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On the 25<sup>th</sup> March 2022 the Planning Authority issued a notification of their intention to GRANT permission subject to 10 no. conditions. Conditions of note are:

8 The following conditions of the Transportation Planning Division to be complied with: a) The vehicular entrance shall not have outward opening gates. b) No part of the development shall encroach upon the public road, Woods Way, by means of underbuild or overhang including eaves projection. The development shall be constructed wholly within the red line ownership boundary. c) 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. d) The developer shall be obliged to

comply with the requirements set out in the Code of Practice. Reason: In order to ensure a satisfactory standard of development.

- 9 The following conditions of the Drainage Division to be complied with: a) The developer shall comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 (available from [www.dublincity.ie](http://www.dublincity.ie) Forms and Downloads). b) Records of public sewers are indicative and must be verified on site. c) The drainage for the proposed development shall be designed on a completely separate foul and surface water system with a combined final connection discharging into Irish Water's combined sewer system. d) Where it is proposed to connect to an existing private drainage system, the developer must comply with the relevant Building Regulations, obtain permission from all the owners of this private system and satisfy themselves as to the adequacy of the private network. If permission cannot be obtained a new connection to the public sewer must be made. e) The development shall incorporate Sustainable Drainage Systems in the management of surface water. Full details of these shall be agreed in writing with Drainage Division prior to commencement of construction. f) The Developer shall ensure that an appropriate Flood Risk Assessment, in accordance with the OPW Guidelines and the Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment, is carried out for the proposed development. g) The outfall surface water manhole from this development must be constructed in accordance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0. h) All private drainage such as, downpipes, gullies, manholes, armstrong junctions, etc. are to be located within the final site boundary. Private drains should not pass through property they do not serve. Reason: In order to ensure a satisfactory standard of development.

### 3.2. Planning Authority Reports

- 3.2.1. **Drainage Division**, Engineering Department: No objection subject to conditions.
- 3.2.2. **Transportation Planning**: Applicant should be requested to submit revised plans providing in-curtilage parking of 5m x 3m, bicycle parking and details of the proposed opening mechanism for the garage door.

3.2.3. **Planning Report:** Concern over proposed shared garden, over rear roof profile. Recommendation that FI be requested on 2 no. grounds.

### 3.3. **Prescribed Bodies**

3.3.1. None on file

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

3.4.1. Four submissions on the proposed development were submitted to the Planning Authority. They raised the following issues:

- Over development of the site,
- Loss of privacy from overlooking,
- Loss of sunlight and daylight from overshadowing,
- Out of character with surrounding development
- Support for the proposed development in terms of improving Woods Way, multi-generational use of the site and maintenance of existing community.

### 3.5. **Further Information Request**

3.5.1. On the 17<sup>th</sup> January 2022, the applicant was requested to address the following two issues:

- 1 modifications to the massing of the rear, the extent of the sloped roof
- 2 in-curtilage car parking, bicycle parking and details of garage door opening mechanism

### 3.6. **Response to FI**

3.6.1. On the 23<sup>rd</sup> February the applicant responded to the FI request with a revised proposal that includes a lower profile, revised roof profile and omission of rooflights, increased car and bicycle parking area. The response states that the garage door slides into the garage, avoiding interference with the lane. The floor area of the proposed dwelling is reduced from 149.18sq.m. to 135.88sq.m

### 3.7. **Reports on File following submission of FI**

3.7.1. **Transportation Planning:** No objections subject to conditions.

3.7.2. **Drainage Division:** No change.

3.7.3. **Planning Report:** Revised proposal is acceptable.

## 4.0 **Planning History**

4.1.1. None on the subject site.

## 5.0 **Policy Context**

### 5.1. **Dublin City Council Development Plan 2016 - 2022**

5.1.1. The site is zoned Z2 with the objective ‘to protect and/or improve the amenities of residential conservation areas.

5.1.2. The site is within the Belmont Avenue / Mount Eden Road & Environs Architectural Conservation Area. January 2016. The ACA policy is “*To seek to preserve, protect and enhance the architectural quality, character and setting of the eighteenth, nineteenth and early twentieth century building characteristics within the ACA and to ensure that any changes complement and add to its character.*” The policies of the plan in relation to Conservation Areas are set out in Section 11.1.5.4 of the Plan.

Relevant policies include the following:

- CHC1 – Preservation of the built heritage of the city.
- CHC4 – Protection of special interest and character of Conservation Areas. “To protect the special interest and character of all of Dublin’s Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.”
- CHC8 – Facilitate off-street car parking in while protecting the character of protected structures and Conservation Areas.
- Policy QH8: -To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

5.1.3. Table 16.1 of the Dublin City Development Plan 2016-2022 sets out the maximum parking standard for houses as 1 space per dwelling in Parking Area 2.

5.1.4. Section 16.10.16 specifically relates to **Mews Dwellings** and includes the following relevant provisions.

(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.

(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.

(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.

(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) Potential mews laneways must have a minimum carriageway of 4.8m in width (5.5 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 7.5m unless it is demonstrably impractical to achieve and shall not be obstructed by off street parking. Where the 7.5m standard is provided the 10 sq.m of private open space per bedspace standard may be relaxed.

(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 dwelling and the mews dwelling”.

## **5.2. Natural Heritage Designations**

- 5.2.1. The nearest Natura 2000 sites, South Dublin Bay and River Tolka SPA (ref.004024) and South Dublin Bay SAC (ref.000210), are located approx. 2km to the east.

## **5.3. EIA Screening**

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

## **6.0 The Appeal**

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

- 6.1.1. The applicant has submitted an appeal against the decision of the Planning Authority, namely condition no. 8(b) and condition no. 9(h). The grounds of the appeal can be summarised as follows:
- The existing workshop was built in the 1970's, with walls at right angles to one another. It is at a slight angle to the lane and does not align with the legal boundary of the site.
  - The design strategy for the proposed dwelling was to rectify this anomaly, aligning the new façade with the established building line and the boundary of the site.
  - Compliance with the conditions would require a set back of 0.3m behind the established building line. This would create an awkward and inharmonious relationship with neighbours.
  - Condition no. 8(b) is a requirement of the Transportation Planning Division, to ensure that neither foundations or eaves are in the public domain.
  - It is common practice to have foundations under the public thoroughfare.
  - The proposed eaves on the subject dwelling project beyond the front façade. As the proposed dwelling is two-storey, there is no possibility of traffic hazard.

- Drawing 6Rev1 indicates a rain water down pipe and gully trap on the lane, at the front façade of the proposed dwelling.
- Compliance with this condition would require setting back the proposed front building line by 0.25m.
- Other planning approvals on the lane do not contain these conditions.
- The conditions are technical in nature. Urban design considerations should take precedence. The conditions should be omitted from the final grant of permission.

## 6.2. **Planning Authority Response**

6.2.1. None on file.

## 6.3. **Observations**

6.3.1. None on file.

## 7.0 **Assessment**

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. Section 139 of the Planning and Development Act 2000- 2016 provides that where an appeal is made to the Board against only conditions of a permission and where the Board is satisfied that a de novo assessment of the appeal is not required, that the Board may issue a direction to the Planning Authority relating to the attachment, amendment or removal of the condition.

7.1.2. In the case of the current appeal against condition no.s 8 and 9, I am satisfied that the appeal accords with the criteria of section 139 and therefore I restrict my assessment of the appeal to condition no.s 8 and 9 only.

## 7.2. **Condition no. 8**

7.2.1. Condition no. 8 of the Planning Authority's decision refers to the conditions of the Transportation Planning Division. The appellant seeks to appeal part (b) of condition no. 8 which requires that "No part of the development shall encroach upon the public road, Woods Way, by means of underbuild or overhang including eaves projection.



The development shall be constructed wholly within the red line ownership boundary". The appellant states that compliance with this condition would require the front wall of the dwelling to be set back 0.3m behind the established building line.

- 7.2.2. I note that the two reports of the Transportation Planning Division do not refer to encroachment on the public road, nor provide a reasoning for the condition. Further, I note that the Board did not include such a condition on PL29S.245074, wherein permission was granted for a mews development to the rear of no. 26 Mount Eden Road or PL29S.225855 for a mews development at no. 24 Mount Eden Road. Nor was such a condition attached to the decisions of Dublin City Council when granting permission for development on Mount Eden road / at Woods Way at no 22 (1178/07 refers), no. 18 (3854/21 refers), at no. 12 (3390/14 and 3170/17 refer).
- 7.2.3. The eaves of the single store structure at no. 22 and the two-store structure at no. 24 project beyond the front façade of both buildings.

### 7.3. **Condition no. 9**

- 7.3.1. Condition no. 9 of the Dublin City Council decision refers to the requirements of the Drainage Division. The applicant seeks to have part (h) of the condition removed. Condition 9(h) states: h) All private drainage such as, downpipes, gullies, manholes, armstrong junctions, etc. are to be located within the final site boundary. Private drains should not pass through property they do not serve.
- 7.3.2. Noting the restricted nature of the subject site and that other downpipes and gullies exist on the subject lane, it is considered that the removal of part (h) of condition no. 9 is acceptable.
- 7.3.3. Given that compliance with the two conditions would require a setback in the established building line on the lane and a reduced footprint of an already small dwelling, it is considered that compliance with the conditions would be unduly onerous, with no appreciable planning gain.

### 7.4. **Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

## 8.0 Recommendation

- 8.1.1. Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to ATTACH revised condition numbers 8 and 9 and the reasons therefore.

## 9.0 Conditions

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| 8. | <p>The following conditions of the Transportation Planning Division shall be complied with:</p> <ul style="list-style-type: none"><li>a) The vehicular entrance shall not have outward opening gates.</li><li>b) 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.</li><li>c) The developer shall be obliged to comply with the requirements set out in the Code of Practice.</li></ul> <p><b>Reason:</b> In order to ensure a satisfactory standard of development.</p>   |
| 9. | <p>The following conditions of the Drainage Division to be complied with:</p> <ul style="list-style-type: none"><li>a) The developer shall comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 (available from <a href="http://www.dublincity.ie">www.dublincity.ie</a> Forms and Downloads).</li><li>b) Records of public sewers are indicative and must be verified on site.</li><li>c) The drainage for the proposed development shall be designed on a completely separate foul and surface water system with a combined final connection discharging into Irish Water's combined sewer system.</li><li>d) Where it is proposed to connect to an existing private drainage system, the developer must comply with the relevant Building Regulations, obtain permission from all the owners of this private system and satisfy</li></ul> |

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| <p>themselves as to the adequacy of the private network. If permission cannot be obtained a new connection to the public sewer must be made.</p> <p>e) The development shall incorporate Sustainable Drainage Systems in the management of surface water. Full details of these shall be agreed in writing with Drainage Division prior to commencement of construction.</p> <p>f) The Developer shall ensure that an appropriate Flood Risk Assessment, in accordance with the OPW Guidelines and the Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment, is carried out for the proposed development.</p> <p>g) The outfall surface water manhole from this development must be constructed in accordance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.</p> <p><b>Reason:</b> In order to ensure a satisfactory standard of development.</p> |
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Gillian Kane  
Senior Planning Inspector

09 September 2022