



An
Bord
Pleanála

Inspector's Report ABP-313511-22

Development

Construction of a part single storey, part 2-storey 3 bedroom detached mews dwelling (c.174m²) with a pitched roof to rear of existing house, vehicular parking and all associated site works with access from Orwell Mews

Location

Site at the rear of 62 Orwell Road, Rathgar, Dublin 6

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

WEB5204/21

Applicant(s)

Tom Lyons

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Luke Keogh and Tara Fitzgerald

Observer(s)

None

Date of Site Inspection

21st September 2022

Inspector

Lorraine Dockery

1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of 490 square metres, forms the existing rear garden area of No. 62 Orwell Road, Dublin 6. There is a laneway to the rear of the property which also provides access to two existing mews properties. This laneway is gated.

2.0 Proposed Development

- 2.1. Permission is sought for construction of a part single storey, part two-storey, three bedroom detached mews dwelling (c.174m²) with a pitched roof to rear of existing house, vehicular parking and all associated site works with access from Orwell Mews.

3.0 Planning Authority Decision

3.1. Decision

The planning authority GRANTED permission, subject to 11 standard conditions.

Further Information was requested by the planning authority in relation to (i) clarity relating to ownership and right of ways of existing rear service lane and (ii) roof design.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The main points of the planner's report include:

- The proposal is considered reasonable and in line with the Z1 zoning objective of the site and the proper planning and sustainable development of the area
- Recommends grant of permission

3.2.2. Other Technical Reports

Transportation Planning Division- no objections, subject to conditions

Drainage Division- no objections, subject to conditions

Archaeological Section- recommends archaeological condition

4.0 Planning History

3784/20

Permission GRANTED to demolish single storey side & rear extensions, extensive internal & external alterations, replacement roof including attic accommodation, rooflights & front dormer window, widen vehicular entrance, construct 2-storey side & rear extensions & single storey rear extension.

Application of note in vicinity:

2366/16 – Rear of 56 Orwell Road, Dublin 6

Permission GRANTED to construct a 2-storey detached pitched roofed dwelling, with two west facing dormer windows, to rear of 56 Orwell Road, Rathgar, Dublin 6, with new vehicular access from Orwell Mews.

5.0 Policy and Context

5.1. Development Plan

The Dublin City Development Plan 2016-2022 is the operative City Development Plan.

Zoning- 'Objective Z1' which seeks 'to protect, provide and improve residential amenities'.

Section 16.10.16 Mews Dwellings

Site located within Zone of Archaeological Interest

QH5: To promote residential development addressing any shortfall in housing provision through active land management and a coordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and under-utilised sites

QH7: To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high

standards of urban design and architecture and to successfully integrate with the character of the surrounding area. 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

5.2. Natural Heritage Designations

The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA. There are no watercourses at or near the site.

5.3. EIA Screening

Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest sensitive location, 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

The main points of the appeal are:

- Validity of planning application
- Contends that applicant has no demonstrated sufficient legal interest in the entirety of the lands within the red line boundary to carry out the works
- Concerns that proposal would inhibit the development of an infill residential unit on their site (No. 60)

- Proposal does not contribute positively to its immediate context, as per Development Plan
- Concerns regarding design, layout and built form
- Impacts on residential amenity- overlooking, loss of privacy
- Contrary to zoning objective
- Traffic and transport concerns- a submission from TrafficWise is included with the appeal documentation

6.2. **Planning Authority Response**

None

6.3. **Observations**

None

6.4. **Further Responses**

A response was received on behalf of the first party which refutes all grounds of appeal. In this response, it is stated that the applicant claims possessory title over the private laneway to the rear of No. 56, 58, 60 and 62 Orwell Road and there are no rights of way to the rear of No. 60 Orwell Road. The applicant further contends that as No. 60 Orwell Road has no access to the private laneway, which is in their possession, the plot (to the rear of No. 60) cannot be developed as a mews dwelling. A signed Statutory Declaration is submitted with the response.

7.0 **Assessment**

- 7.1. I have read all the documentation attached to this file including inter alia, the appeal, the report of the Planning Authority and the first party response, in addition to having visited the site. The primary issues, as I consider them, are (i) legal matters (ii) the impact on the visual and residential amenity of the area arising from the proposed development and (iii) traffic and transport matters.

Legal Matters

- 7.2. The first matter raised in the appeal submission relates to the validity of the application and the third party contention that that applicant does not have sufficient legal interest to make the planning application. This relates to the ownership of the strip of land to the rear of No. 60 Orwell Road and the right of way over this strip. The planning authority addressed this matter by way of a Further Information request and were satisfied with the response received (response available online). In the response to the appeal, the applicant states that he claims possessory title over the private laneway to the rear of No. 56, 58, 60 and 62 Orwell Road and there are no rights of way to the rear of No. 60 Orwell Road. A signed Statutory Declaration has been submitted in this regard. I consider this to be a legal matter outside the remit of this planning appeal. I can only undertake my assessment based on the information before me. I am satisfied, based on this information, that the applicant has demonstrated sufficient legal interest to make this application. As in all such cases, the caveat provided for in Section 34(13) of the Planning and Development Act 2000, as amended, applies which stipulates that a person shall not be entitled solely by reason of a planning permission to carry out any development. I also note the provisions of Section 5.13 of the Guidelines for Planning Authorities, Development Management, 2007 in this regard.

Policy Context

- 7.3. Section 16.10.16 of the operative City Development Plan sets a generally favourable policy towards mews development, subject to compliance with normal planning criteria. I consider the proposal to be substantially in compliance with this section of the operative City Development Plan.

Visual Amenity

- 7.4. In terms of visual amenity, I am generally satisfied with the design approach put forward in this instance. The roof design was altered as part of the Further Information request (drawings available online). I do not consider the proposal to be excessively dominant and I am of the opinion that the massing, scale and height proposed is generally acceptable. I do not consider it to be out of character with existing development in the vicinity nor would it detract from the visual amenities of the area. I consider the proposal to represent an appropriate response to the

development of this underutilised, backland site. I am satisfied that the proposed development is in accordance with the operative City Development Plan in this regard.

Residential Amenity

7.5. In terms of impacts on residential amenity, I am cognisant of the relationship of the proposed development to neighbouring properties. I note that there is no residential development to the south or west of the proposed development site. Herzog Recycling is located to the west of the site while Stratford College is located to its south. I consider that the proposal does not represent over-development of the subject site nor would it inhibit development on neighbouring sites. In my opinion, separation distances typical of what would normally be anticipated within such an established, urban area are proposed with existing properties. This will ensure that any impacts are in line with what might be expected in an area such as this. If the Board is so disposed, they may wish to increase the separation distance between the proposed single storey element to front and the northern boundary. In this regard, they may wish to omit the en-suite and storage area from the proposal to achieve an increased separation distance of approximately 1.5 metres. I am, however, satisfied with the proposal as set out in the submitted documentation and do not consider such an increased separation distance to be necessary.

7.6. The design response and layout proposed is such that the proposed house would not unduly overbear, overlook or overshadow adjoining properties, and would not seriously injure the amenities of property in the vicinity of the site. I am satisfied that impacts on privacy would not be so great as to warrant a refusal of permission. There is an acknowledged housing crisis and this is a serviceable site, in an established city area, where there are adequate public transport links with ample services, facilities and employment in close proximity.

Traffic and Transport Matters

7.7. I note the concerns raised in the appeal with regards to this matter and the supporting documentation submitted. I am not unduly concerned in this regard. I would not anticipate the proposed development to lead to the generation of significant volumes of traffic. The proposal is substantially in compliance with

Development Plan standards in this regard and the Transportation Division of the planning authority have not raised concern, subject to conditions.

- 7.8. One off-street parking space is proposed. I am satisfied in this regard given the urban location of the site and its proximity to available parking and public transport, together with the limited scale of the proposed development.
- 7.9. I am generally satisfied in this regard and have no information before me to believe the proposal would lead to the creation of a traffic hazard or obstruction of road users.

Conclusion

- 7.10. Having regard to the limited extent, height and design solution put forward, I am satisfied that the proposed development is in accordance with the zoning objective of the City Development Plan, which seeks 'to protect provide and improve residential amenities', is in keeping with the pattern of development in the area and is in accordance with the proper planning and sustainable development of the area.

8.0 Appropriate Assessment Screening

- 8.1 Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

9.0 Recommendation

- 9.1. I recommend permission be GRANTED subject to conditions.

10.0 Reasons and Considerations

Having regard to the pattern of development in the area and its residential zoning under the Dublin City Development Plan 2016-2022, and to the standards for the development of mews houses set out in section 16.10.16 of that Plan, it is

considered that, subject to compliance with conditions below, the proposed house would not seriously injure the character of the area or the amenities of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

11.0 Conditions

1.	<p>The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by Further Information received by the planning authority on 16th March 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.</p> <p>Reason: In the interest of clarity</p>
2.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 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.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>

4.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.</p> <p>Reason: In the interests of visual and residential amenity.</p>
5.	<p>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.</p> <p>Reason: In the interest of public health and surface water management.</p>
6.	<p>The developer shall comply with all requirements of the planning authority in relation to transport and traffic matters</p> <p>Reason: In the interests of public safety</p>
7.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area</p>
8.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p>

	<p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
9.	<p>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.</p> <p>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</p>

Lorraine Dockery
Senior Planning Inspector

26th September 2022