



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313957-22

<b>Development</b>	Construction of 3-storey 1-bedroom town house. Replaces self-contained single storey commercial workshop / repair garage unit on the site, similar accessed from public laneway from Sundrive Road.
<b>Location</b>	Site to rear of No. 16 Kildare Road, Crumlin, Dublin 12.
<b>Planning Authority</b>	Dublin City Council South.
<b>Planning Authority Reg. Ref.</b>	3720/22.
<b>Applicant(s)</b>	Rosemary Sherlock.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party.
<b>Appellant</b>	Rosemary Sherlock.
<b>Observer(s)</b>	1. Thomas Stevens. 2. Caroline & Patrick Spollen.
<b>Date of Site Inspection</b>	22 <sup>nd</sup> day of September, 2022.
<b>Inspector</b>	Patricia-Marie Young.

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## 1.0 Site Location and Description

- 1.1. The appeal site has a given 48.2m<sup>2</sup> area and it contains a single storey workshop. Historically the site formed part of the rear garden area of No. 16 Kildare Road. The eastern boundary of the site fronts onto a corner of a modest L-shaped cul-de-sac lane with this boundary situated c45m to the west of this lane's intersection onto Sundrive Road. Access to this workshop is via double doors. The lane is bound by the rear of No.s 2 to 20 Kildare Road and No.s 138 to 150 Sundrive Road. The site is situated just over 4km to the south west of Dublin's city centre in the city suburb of Crumlin. The surrounding area has a predominantly residential character.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a 3-storey, 1-bedroomed town house (Note: 82.3m<sup>2</sup>), including private roof terrace and ground floor bin and bicycle storage with access from public laneway from Sundrive Road. The proposed development would replace an existing self-contained, single storey commercial workshop/repair garage unit on the site, similarly accessed from the public laneway from Sundrive Road.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The decision of the Planning Authority was to refuse planning permission for the following stated reasons:

"1. *Having regard to the Z1 zoning for the site which is 'to protect, provide and improve residential amenities'; the standards for residential development set out in Chapter 16 of the Dublin City Development Plan 2016-2022; the constrained nature of the site; the pattern of development on the laneway, and the restricted width of the laneway; It is considered that the development of a three storey town house/mews, due to its height and design, would constitute overdevelopment of this restricted site, would fail to provide satisfactory private amenity space or parking for future occupants in line with mews standard, and*

would, therefore, seriously injure the amenities of the area and or property in the vicinity. The proposed development would, therefore, be contrary to the Dublin City Development Plan standards as set out in Section 16.10.16 for Mews dwellings and therefore contrary to the proper planning and sustainable development of the area.

2. *Having regard to the existing width of the adjacent Sundrive Road laneway, it is considered that safe means of vehicular access has not been demonstrated and that the proposed mews dwelling would add congestion on the laneway and would result in increased pedestrian, cyclist and commercial vehicle conflict. The mews development does not comply with aims and objectives of the Dublin City Development Plan 2016 – 2022, Section 16.10.16 ‘Mews Dwellings’, in terms of width of the existing laneway, non-provision of in-curtilage car parking and the creation of a traffic safety hazard. The proposed mews development would set an undesirable precedent, and is therefore considered to be contrary to the proper planning and sustainable development of the area.”*

Decision date: 03/06/2022.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The Planning Authority’s Planning Officer’s report is the basis of their decision. It includes the following comments:

- The laneway is very narrow on the stretch of houses behind Kildare Road where it measures 4.7m wide and where there are no footpaths through to there is not an agreement with other owners for a coherent development of the lane.
- The rear private amenity space is substandard. A terrace should be in addition to meeting the private amenity standards required under the Development Plan for the type of development proposed.
- Emergency and service vehicle access is not demonstrated.
- Concern is raised in relation to the precedent this development would set.

- This laneway is used for uncontrolled parking.
- No car parking is proposed to serve the proposed development.
- The proposed development does not comply with various Development Plan standards for the type of development proposed.
- Visual amenity concerns are raised.
- Concludes with a recommendation to refuse permission.

### 3.3. Other Technical Reports

#### 3.3.1. **Transportation:** Recommends refusal and raises the following concerns:

- This proposed development does not meet the minimum carriage width requirement for mews development, i.e., 5.5m where no verges or footpaths are provided.
- The sole access serving the proposed development is via Sundrive Road laneway, a substandard cul-de-sac with no vehicle turning facilities, with deficient space for the manoeuvring of vehicles and not subject to any controlled parking.
- The laneway provides mainly secondary access to the rear of commercial and residential properties. It is not a mews lane.
- In-curtilage garage parking is noted for a number of the properties bounding the lane including the site.
- Informal parking occurs along this lane. This narrows the laneway to less than 2m in places and thereby restricts vehicle access.
- Access for emergency and service vehicles not demonstrated. Vehicle access is likely to require reverse egress resulting in a traffic hazard.
- Parking standards for mews development requires in-curtilage parking.
- The site is located within Area 3 where the non-provision of car parking for this type of development is not considered appropriate.
- Concludes that the proposed development is unacceptable due to its failure to demonstrate safe means of vehicle access, traffic hazard, adding to congestion on the laneway, undesirable precedent, and failure to meet required Development Plan standards.

3.3.2. **Drainage:** No objection, subject to safeguards.

### 3.4. **Prescribed Bodies**

3.4.1. None.

### 3.5. **Third Party Observations**

3.5.1. The 2 No. Third-Party observations by and large reiterate the concerns raised by the Third-Party observer's submissions received by the Board. In addition, they also raise concern that the proposed development could give rise to water run-off into their properties and one of the observations includes an attachment signed by 17 property owners with addresses in the immediate vicinity objecting to the proposed development.

## 4.0 **Planning History**

4.1. **Site & Setting:** No recent and/or relevant planning history.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

5.1.1. Dublin City Development Plan, 2022-2028, is applicable, under which the site is zoned 'Z1' (Sustainable Residential Neighbourhoods) "*to protect, provide and improve residential amenities*". The vision for residential development as set out in this Development Plan is: "*one where a wide range of high quality accommodation is available within sustainable communities where residents are within easy reach of open space and amenities as well as facilities such as shops, education, leisure and community services*" and the objective is: "*to ensure that adequate public transport, in conjunction with enhanced pedestrian and cycling infrastructure, provides such residential communities good access to employment, the city centre and the key urban villages in order to align with the principles of the 15-minute city.*"

5.1.2. Chapter 3 of the Development Plan sets out the policies and objectives for climate action.

- 5.1.3. Section 15.5.2 of the Development Plan describes infill development as: “*lands between or to the rear of existing buildings capable of being redeveloped*” and sets out the requirements for such development.
- 5.1.4. Section 15.5.5 and Appendix 3 of the Development Plan deals with the matter of density and indicates that higher density in appropriate locations in accordance with regional and national planning provisions will be supported as part of consolidating development within existing urban areas.
- 5.1.5. Section 15.11.3 of the Development Plan sets out that a minimum standard of 10m<sup>2</sup> of private open space per bedspace to the rear of a house will normally be applied. It clarifies that: “*a single bedroom represents one bedspace and a double bedroom represents two spaces*”; “*that generally up to 60 to 70 m<sup>2</sup> of rear garden area is considered sufficient for houses in the city*” and it sets out that: “*these standards may be relaxed on a case-by-case basis subject to a qualitative analysis of the development*”. It further sets out in relation to where dwellings have no front gardens in urban settings that it is important that defensible space is created behind the public footpath.
- 5.1.6. Section 15.11.4 sets out that there should be adequate separation between opposing first floor windows and traditionally a separation distance of about 22m was sought but that this may be relaxed where it can be demonstrated that the development is design to preserve the amenities as well as privacy of adjacent occupiers.
- 5.1.7. Section 15.13.4 of the Development Plan defines backland development as that situated to the rear of an existing property or building line and that it can include mews dwellings with access from a rear laneway or a detached habitable dwelling to the rear of an existing house with an independent vehicular access. This section of the Development Plan sets out the considerations for backland housing.
- 5.1.8. Section 15.13.5 of the Development Plan deals with mews developments and Section 15.13.5.1 deals with their design and layout. It sets out that the 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.
- 5.1.9. Section 15.13.5.2 of the Development Plan deals with the matter of height, scale and massing of mews building and sets out that these will generally be confined to two-

storey buildings and sets out the criteria where three storey mews development incorporating apartments will be acceptable.

5.1.10. Section 15.13.5 and Section 15.13.5.4 of the Development Plan deals with roofs and access respectively.

5.1.11. Appendix 5 of the Development Plan sets out an indicative plot ratio of 1.0 to 2.0 and site coverage of 45 to 60% in residential areas (Table 2).

## 5.2. Regional

5.2.1. The **Eastern and Midland Regional and Spatial Economic Strategy**, which came into effect on June 28th, 2019, builds on the foundations of Government policy in Project Ireland 2040, which combines spatial planning with capital investment.

Chapter 4 (People & Place) sets out a settlement hierarchy for the Region and identifies the key locations for population and employment growth. It includes Dublin City at the top of the settlement hierarchy.

This strategic plan seeks to determine at a regional scale how best to achieve the shared goals set out in the National Strategic Outcomes of the NPF and sets out 16 Regional Strategic Outcomes (RSO's) which set the framework for city and county development plans, including:

- RSO 2 Compact Growth and Urban Regeneration - Which seeks to promote the regeneration of our cities, towns, and villages by making better use of under-used land and buildings within the existing built-up urban footprint and to drive the delivery of quality housing and employment choice for the Region's citizens.

## 5.3. National

5.3.1. **National Planning Framework**, 2040, seeks to consolidate development and promote efficient use of land by utilising infill and brownfield sites. It contains policies that relate to the promotion of compact growth and making better use of under-utilised land, including 'infill' and 'brownfield' sites. Objective 3b seeks to deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway, and Waterford, within their existing built-up footprints.

5.3.2. **Other:**

- **Climate Action Plan, 2019.**



- **National Development Plan, 2021 to 2030.**
- **Housing for All – A New Housing Plan for Ireland to 2030, 2021.** Like other national policy provisions this targets settlement centre growth first and seeks regeneration of cities, towns, and villages.
- **Section 28 Ministerial Guidelines:** The following Section 28 Ministerial Guidelines are relevant:
  - Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual').
  - Urban Development and Building Heights – Guidelines for Planning Authorities 2018.
  - Quality Housing for Sustainable Communities, Best Practice Guidelines for Delivering Homes Sustaining Communities, 2007.

#### 5.4. **Natural Heritage Designations**

- 5.4.1. The site is not located within or close to any European site. The closest such sites are the South Dublin Bay SAC (Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which are located just over 6km to the east at the closest point as the bird would fly.

#### 5.5. **EIA Screening**

- 5.5.1. The form of development proposed is not of a class for the purposes of EIA and no screening assessment is therefore required.

### 6.0 **The Appeal**

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

- 6.1.1. The First Party's grounds can be summarised as follows:
- The Planning Authority's decision is unreasonable and short-sighted. It fails to consider the Sections of the Development Plan that promote the development

sustainable residential units on underutilised sites within well-serviced inner suburban areas of the city.

- The design response arises from the constraints of a tight site, but it substantially complies with the Development Plan standards and other relevant planning provisions.
- The zoning of the site seeks to protect and improve residential amenity with one not been given precedent over the other.
- Given the anti-social activity and very low residential amenity of this lane currently this proposal improves the amenity of the lane whilst not undermining the protection of existing residential amenity.
- The passive surveillance that would arise from the proposed development on the lane would be positive to the protection of residential amenity.
- The Development Plan encourages such development on underutilised lands despite the constraints of the site's size.
- This proposal does not have on-site car parking space and therefore does not involve any increase or intensification of vehicular activity in the lane.
- The lane is currently being used by delivery vehicles and is currently used to access the applicant's workshop.
- There are viable alternatives in this location to on-site car parking and shift away from car use is encouraged in the Development Plan.
- There is already an existing residential development that does not benefit from any form of car parking and is only accessible from this laneway.
- The Development Plan encourages a diverse mix of households and communities as well as a more compact city.
- The proposed design is comparable to other dwellings in its setting.
- The stepped and recessed nature of the roof level design and the roof terrace is a respectful scale and design for its setting that would not appear overly dominant in its context.

- The private amenity space exceeds local and national planning provisions standards for private open space.
- A plot ratio of 1.7 and site coverage of 70% is acceptable at this location.
- The internal amenity standards for occupants meets and exceeds spatial as well as layout requirements for a 3 person 2-bedroom 2-storey house, despite the dwelling being argued to be a 2 person 1-bedroom house.
- The design addresses anti-social issues arising in the lane.
- A first-floor window serving a kitchen was omitted from the suite of drawings in error and the appellant does not object to this window having a cill height of 1.8m and opaque glazing, ensuring that it would not be possible to see out of.
- The design has had regard to minimising impact on adjoining properties.
- The scale of the proposed dwelling and the choice of brick would result in a discrete attractive addition when compared to what is currently on site.
- It is indicated that the dwelling would be for the applicant's son and partner.
- There is a major housing crisis.
- The site is a self-contained site with its own Eircode.
- Dwellings on Kildare Road benefit from large gardens.

## **6.2. Planning Authority Response**

6.2.1. None.

## **6.3. Observations**

6.3.1. On the 26<sup>th</sup> day of July, 2022, an observation was received by the Board from Thomas Stevens, of No. 18 Kildare Road. It can be summarised as follows:

- Seeks the Board upholds the Planning Authority's decision.
- Concern is raised that the proposed development would seriously impact on their privacy and use of their property.
- Contends the proposed design to be substandard.

- There is no precedent for such a development in this area.
- Contends that the proposed dwelling is visually imposing and intrusive. It would result in serious visual amenity diminishment to properties in its vicinity.
- Concern is raised as to how the structure would be accessed during construction and upon occupation. As well as traffic generated on the lane.
- The traffic associated with the development would have the potential to result in obstruction on this lane and in its vicinity.
- Waste management concerns are raised.
- The litter problems on the subject lane are a matter for the City Council.
- According to An Garda Siochana there has been no issue with any drug dealing in the recent past on the subject lane.
- There are plenty of available properties available in Crumlin for anyone wishing to become a resident.

6.3.2. On the 15<sup>th</sup> day of July, 2022, an observation was received by the Board from Caroline and Patrick Spollen, of No. 16 Kildare Road. It can be summarised as follows:

- The site adjoins the rear garden of the observers.
- Having regard to the substandard nature of the laneway, the restricted size of the site and the deficiencies in the design of the proposed dwelling it is considered that the Planning Authority's decision to refuse permission should be upheld.
- The proposed development would result in overdevelopment of this restricted site with this being evident in the lack of adequate private open space and the excessive site coverage.
- The restricted private open space that is proposed is questionable given that it is not only substandard in area, but it is also taken up by bin storage.
- The site coverage is given as 70% yet the maximum site coverage permitted under the Development Plan for Z1 zoned lands is 60%.
- The proposed development does not comply with the standards for mews dwellings in that it has three storeys height instead of two, the mews lane does not meet the

4.8m width, no off-street car parking is proposed and the minimum garden depth of 7.5m is not achieved.

- The width of the lane is restricted, and the proposed development has the potential to give rise to conflict with other users. This lane also does not contain car parking to meet the car parking needs of the dwelling's occupants.
- The lane has limited space for manoeuvring and turning vehicles generated by the proposed development.
- Informal parking along the lane is noted and where this arises it restricts the width of the lane to 2m in places thereby obstructing vehicle access.
- Access to the lane for emergency and servicing vehicles has not been demonstrated.
- The proposed development would provide a substandard level of amenity for future occupants. With this arising from lack of adequate private amenity, car parking, substandard bedroom accommodation, poor acoustic privacy through to failure of the design to meet Fire Safety Codes.
- The lane is used as a service lane for deliveries.
- A three-storey dwelling at this location would be visually intrusive when observed from the observer's property.
- The proposed structure would give rise to overshadowing of the observer's property.
- The glazing design of the proposed dwelling would give rise to diminishment in privacy.
- The appellant in their submission to the Board fails to have regard to the Planning Authority's Roads Division which states that the proposed development would create a traffic hazard.
- Should the Board be minded to grant permission it is requested that a condition be imposed requiring a condition to be attached that requires a minimum cill level of 1.8m for the proposed kitchen window.

## 7.0 Assessment

### 7.1. Preliminary Comment

7.1.1. Having inspected the site and considered the contents of the appeal in detail, including all submissions received by the Board together with having had regard to local through to national planning provisions as well as guidance the main planning issues in the assessment of this appeal case arise in my view from the two reasons for refusal of permission for the proposed development sought under this application. These can be dealt with under the following broad headings:

- Principle of Development
- Design and Layout
- Other Matters Arising

7.1.2. The matter of '*Appropriate Assessment*' also requires examination.

7.1.3. I consider that all other matters can be satisfactorily be addressed by way of appropriately worded conditions, including the demolition of the existing workshop structure on site, surface water drainage, nuisances arising from the demolition and construction phase, through to the potential of the first-floor level kitchen window serving the proposed dwelling could be dealt with by way of standard condition should the Board be minded to grant permission.

7.1.4. For clarity, my assessment below considers the proposed development against the recently adopted Dublin City Development Plan, 2022-2028.

### 7.2. Principle of the Proposed Development

7.2.1. By way of this application permission is essentially sought for a development consisting of the demolition of an existing workshop and in its place the construction of what is described as a three storey one bedroom town house on what was historically part of the back garden of No. 16 Kildare Road that bound a service lane accessed from Sundrive Road to the east of the site.

7.2.2. The stated objective for such land is to protect, provide and improve residential amenities (Z1).

7.2.3. The vision for such land is to achieve a wide range of high-quality accommodation is available within sustainable communities.

7.2.4. Residential developments are deemed to be permissible Z1 zoned lands. I therefore consider that the general principle of the proposed development is acceptable, subject to safeguards.

### **7.3. Design and Layout**

7.3.1. The Planning Authority's first reason for refusal raises concerns that this constrained site, having regard to the pattern of development on what it describes as a restricted in width laneway, that the proposed three storey town house/mews due to its height and design would constitute over development and would fail to provide satisfactory private amenity space or parking for future occupants in accordance with the required standards as provided for under Dublin City Development Plan, 2016 to 2022. It concludes that the proposed development would seriously injure the amenities of the area and property in the vicinity.

7.3.2. The First Party appellant disagrees that this would be the case and argue that their design is an innovative and contemporary new built insertion into this suburban landscape setting. That would generally accord with the required planning provisions. They further contend that it is respectful to its immediate locality alongside would not give rise to any undue visual and/or residential amenity impacts on the area.

7.3.3. The observers support the Planning Authority in its reasons for the refusal of permission for the development sought under this application. They object to the proposed development mainly on the basis that it would in their view give rise to a diminishment of their established residential amenities through to would give rise to a visually obtrusive insertion into its setting that is at odds with its setting, including on a substandard lane that does not have any established precedent for mews type developments.

7.3.4. Having regard to the various types or residential development provided for under the Development in my view the proposed development could be considered as backland housing. On the basis that the Development Plan sets out that this type of residential development can include mews dwellings to the rear of existing houses with access from a rear laneway or detached dwellings to the rear of existing housing with independent vehicle access.

7.3.5. In relation to such land, the Development Plan sets out that these require more innovation and reinterpretation to enable comprehensive development of these spaces. With the Development Plan setting out that consideration should be given to access, servicing and the interrelationship between these developments and other properties in their vicinity in terms of overlooking, privacy, aspect, and daylight/sunlight. The Development Plan sets these considerations are paramount to the success and acceptability of these type of residential developments.

7.3.6. Of note, Section 15.13.4 of the Development Plan sets out that: “*where there is potential to provide backland development at more than one site/property in a particular area, the Planning Authority will seek to encourage the amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development*” and that: “*piecemeal backland development with multiple vehicular access points will not be encouraged*”. This section of the Development Plan also sets out the following considerations for backland housing.

- Compliance with relevant residential design standards in relation to unit size, room size, private open space etc.
- Provision of adequate separation distances to ensure privacy is maintained and overlooking is minimised.
- That safe and secure access for car parking and service and maintenance vehicles is provided.
- The scale, form and massing of the existing properties and interrelationship with the proposed backland development.
- The impacts on either the amenity of the existing properties in terms of daylight, sunlight, visual impact etc. or on the amenity obtained with the unit itself.
- The materials and finishes proposed with regard to existing character of the area.
- A proposed backland dwelling shall be located not less than 15m from the rear facade of the existing dwelling and with a minimum rear garden depth of 7m.
- A relaxation in rear garden length, may be acceptable, once sufficient open space provided to serve the proposed dwelling and the applicant can demonstrate that the proposed backland dwelling will not impact negatively on adjoining residential amenity.



- 7.3.7. In relation to the above, I raise a number of concerns in relation to the proposed development sought under this application.
- 7.3.8. In particular I am not satisfied that the proposed dwelling complies with relevant residential design standards in relation to piecemeal development, private amenity space, site coverage, access, car parking and interrelationship with its setting.
- 7.3.9. In relation to residential development at this location, the lane upon which access to the site is dependent upon is not a mews lane, but is a service lane, that in the context of the Kildare Road side provided access to the rear garden space of No.s 2 to 20 Kildare Road. With the residential development of these properties dating back to the middle of the last century and accommodating predominantly two storey terraced dwellings that shared unity in built form, appearance, layout through to palette of materials. These properties historically did not contain mews structures and/or structures built for separate residential purposes along their rear boundary.
- 7.3.10. Further they form part of a larger coherent in design and layout period of suburban development that occurred at this location. With No.s 2 to 20 Kildare Road not in the intervening years outside of the exception of No. 16 being subdivided to the rear and not developed to accommodate any separate residential units accessed from the adjoining cul-de-sac lane.
- 7.3.11. The aforementioned subdivision appears to now relate to non-residential use with the existing building on the site referred to as a workshop and containing separate in-curtilage access for vehicles.
- 7.3.12. No.s 2 to 20 Kildare Road are all residentially zoned. Whereas the buildings on the opposite side of the cul-de-sac lane are zoned for neighbourhood centre land use functions accommodating more dense and varied land uses.
- 7.3.13. Of further concern the documentation provided with this application does not include any coherent approach to the residential development of this lane to the rear of these properties.
- 7.3.14. Given the deficiencies in width of the rear lane to accommodate the proposed development, the lack of setback to achieve the required minimum width for such a development through to the ad hoc nature of the proposed development I am not satisfied that the applicant has demonstrated that it accords with the Development

Plan approach to secure comprehensive backland development. Such an approach is also advocated under Section 15.13.5.1 of the Development Plan. If permitted in the form proposed, it would establish a precedent for similar developments that would cumulatively give rise to uncoordinated piecemeal development of the rear gardens of No.s 2 to 20 Kildare Road.

- 7.3.15. In relation to the private amenity space there is a requirement under the Development Plan for the proposed dwelling which is indicated as a one-bedroom dwelling with a double bedroom to have effectively no functional passive or recreational private amenity space at ground floor level, with no private amenity space being provided to the rear of the proposed dwelling.
- 7.3.16. The applicant contends that a covered walkway of a given 8.7m<sup>2</sup> area and bin storage yard area of a given 4.5m<sup>2</sup> at ground floor level to the side of the proposed dwelling, together with the provision of a roof terrace with a given 11.7m<sup>2</sup> area meets and exceeds the required private amenity standards.
- 7.3.17. As set out above a minimum garden depth for this type of dwelling is given as 7m to the rear. With Section 15.13.5.2 of the Development Plan stating that private open space shall be provided to the rear of the building as part of providing for a quality residential environment.
- 7.3.18. This is not provided in this design nor as said is there a minimum of 20m<sup>2</sup> of ground floor space provided at ground floor level in this design, if one accepts that this dwelling is confined to accommodating two bedspaces only. Yet the proposed dwelling has a given floor area of 82.3m<sup>2</sup>. Alongside it includes at third floor level a room that is given a function of leisure space but adjoins a large storage/laundry area and could therefore be used as additional bedspace(s) in future subject to minimal alterations.
- 7.3.19. I also note that Section 15.11.3 of the Development Plan sets out that the private open space is usually provided for by way of a private garden to the rear of a house, that a minimum standard of 10m<sup>2</sup> minimum standard of private open space per bedspace will normally be applied and that generally up to 60 to 70m<sup>2</sup> of rear garden is considered sufficient for houses in the city.
- 7.3.20. I further note that as the subject is not located with the inner city the lesser standard of 5 to 8 m<sup>2</sup> of private open space is not applicable for the proposed development though I am cognisant that the Development Plan sets out that all applications for infill

developments will be assessed on a case-by-case basis for backland development. In addition, in relation to backland development the Development Plan sets out that the Planning Authority may permit relaxation of some standards to promote densification and urban consolidation in specific areas.

- 7.3.21. In relation to site coverage, the subject site has a given area of 48.2% and the appellants set out that the proposed design would give rise to an indicative site coverage of 70%. With the remaining 30% consisting of the covered walkway with the first and second floor level over and a modest yard for bin storage.
- 7.3.22. Given the substandard private open space together with other concerns arising in this assessment the site coverage of 70% is 10% above that recommended in the Development Plan in this residential location.
- 7.3.23. It is not reflective of an innovative design approach in my view that achieves qualitative standards of residential amenity for future occupants of this dwelling. But rather it reflects overdevelopment of this modest and constrained site.
- 7.3.24. In relation to access, I note that no car parking provision is proposed to meet the proposed needs of future occupants nor has the documentation provided with this application and on appeal demonstrate safe access for service and emergency vehicles.
- 7.3.25. The design seeks to build on the eastern boundary of the site with no setback for defensible space nor setting a desirable setback to achieve the minimum width of laneway given that it does not include any pedestrian footpath, yet it is used for pedestrian, cycle access alongside informal car parking that further restricts access along its length. The latter would provide a more site sensitive response to the deficiencies of this lane and would accord with the Development Plan which requires a minimum width of 5.5m where there are no verges or footpaths provided which is the situation at this location.
- 7.3.26. I also note that one car parking space is provided for such a development at this location (Area 3) and that the Planning Authority's Transportation Department considered that the site is one where the non-provision of car parking for this type of development is not considered appropriate.

- 7.3.27. They also considered that the laneway is not a mews lane and is one that provides secondary access to the rear of commercial and residential properties. They further considered that it is a substandard in width lane and that its width is significantly compromised to in places 2m by *ad hoc* car along it. On the latter point they note the absence of any parking controls on the lane and that it is also further deficient in its nature due to the lack of vehicle turning facilities thereon.
- 7.3.28. Moreover, in general the width which at best is 4.8m to the south of the site and therefore fails to meet the width of 5.5m which is the minimum width required for mews laneways where there is no verges or pedestrian footpaths under the Development Plan for mew lane developments.
- 7.3.29. I note that the various concerns of the Planning Authority's Transportation Department gave rise to their recommendation of refusal which is the basis of the second reason of refusal. With these concerns also including the proposed development would give rise to added congestion, a traffic hazard through to undesirable precedent.
- 7.3.30. They also note that this laneway is a secondary service lane that serve the residential and commercial developments that bound it.
- 7.3.31. I also observed that traffic along Sundrive Road which the lane is accessed from in either direction was busy and that visibility from this lane onto this road was hampered by obstructions, including the parking to the south.
- 7.3.32. Further, the carriageway was substandard in terms of surfacing and that litter as well as other storage devices restricted the width of the lane to the south of the site.
- 7.3.33. Any traffic generated by the proposed development during construction and when in operation would in my view give rise to additional obstructions on this substandard lane and thereby create a further hazard for its established users.
- 7.3.34. In relation to the scale, form and massing of the existing properties and interrelationship with the proposed development I raise concern that the insertion of a three storey to the rear of No. 16 Kildare Road and in the context of the development that characterises the rear garden areas of No.s 2 to 20 Kildare Road, which is characterised by modest single storey sheds, would be out of character as well as at odds with its setting.

- 7.3.35. Against this context a three-storey building of the built form proposed despite the setback at second floor level and the limited glazing to the rear would fail to be subservient in this context.
- 7.3.36. The drawings appear to suggest that relative to the height of No. 16 Kildare Road, which I note is a modest two-storey terrace dwelling that it would be set down from its stated ridge height of 9.2m by 700mm. In this context I do not consider the 8.4m overall built height together with the built form, massing, detailing together with the modest 48.2m site area results in a subordinate built insertion to the rear of No. 16 Kildare Road and the terrace group it forms part of.
- 7.3.37. Whilst achieving close to the 22m separation distance I also raise a concern that should any of these dwellings seek to extend at first floor level that the proximity of the proposed dwelling. In particular, opposing rear windows above first floor level would be an issue.
- 7.3.38. On this point I note that the elevational drawings for the first-floor level rear window serving the kitchen area of the proposed dwelling in error were omitted and the appellant indicates that they would be happy that any grant of permission restrict the cill height of this window to 1.8m to ensure privacy of adjoining properties.
- 7.3.39. I am also cognisant that a level of overlooking exists already at this location and that it is to be expected at such a suburban city location. Notwithstanding, I recommend that the Board include a condition limiting the height of the said window in the event of a grant of permission.
- 7.3.40. I also raise a concern that the double bedroom proposed is not just poorly served by way of natural light and ventilation penetration but also its width does not comply with the standards set out under the Quality Housing for Sustainable Communities, Best Practice Guidelines for Delivering Homes Sustaining Communities, 2007. These standards require a minimum unobstructed width of 3.3m for one bedroom. This is not provided due to this bedroom dimensions through to the encroachment of the stairwell. I am therefore not satisfied that despite the floor area of the proposed dwelling that the proposed double bedroom would provide qualitative internal amenities standards for future occupants.
- 7.3.41. The documentation provided with this application and on appeal does not include any analysis of what impact the proposed development would give rise to in terms of the

potential impact on daylight through to overshadowing of properties in its vicinity. Given the separation distance between the rear of No. 16 Kildare Road and adjoining properties together with the orientation of the site through to the built form, massing and volume of the development proposed I consider that the proposed development would not give rise to significant overshadowing or diminishment of daylight to properties in its vicinity.

7.3.42. In saying this I consider that the proposed dwelling by virtue of its height, mass, volume, and visual incongruity with the single storey nature of buildings that characterise the rear of No.s 2 to 20 Kildare Road would be visually intrusive and overbearing when observed from these properties.

7.3.43. On the basis of the above, I consider that the proposed development does not comply with the standards for this type of development, it is not consistent with 'Z1' land use zoning objective for the site which seeks to protect, provide, and improve residential amenities and Section 15.13.4 of the Development Plan. If permitted, the proposed development, would in my view, give rise to piecemeal uncoordinated development that would give rise to an undesirable precedent for this laneway that in itself would give rise to a traffic hazard on this substandard service lane. For these reasons I concur with the Planning Authority in their two given reasons for refusal. That is to say that the proposed development based on these concerns would be contrary to the proper planning and sustainable development of the area.

#### 7.4. **Other Matters Arising**

7.4.1. **Anti-social Behaviour:** The appellants contend that the proposed development would improve anti-social behaviour situation on the subject lane. This is not sufficient justification to permit a proposed development that fails to demonstrate that it accords with relevant planning provisions, particularly those set out in the Development Plan, which overall seek qualitative residential development outcomes and sustainable development whilst allowing for the city to develop a more compact physical, functional and spatial form.

7.4.2. **Civil Matters:** I raise a concern that the documentation included with this application and on appeal do not sufficiently demonstrate that no encroachment and/or oversailing would arise from the proposed development sought. Further there is no documentation provided to support that the applicant has the consent for any encroachment and/or

oversailing on lands outside of their legal interest. I cognisant that any decision on the planning application does not purport to determine the legal interests held by the applicants or indeed any other interested party. Should the Board be minded to grant permission for the proposed development as a safeguard I recommend that it includes as a precaution Section 34(13) of the Planning and Development Act, 2000, as amended. It sets out that *“a person shall not be entitled solely by reason of a permission or approval under this section to carry out a development”*.

## 7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature, extent and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced area with a significant lateral separation distance to the nearest European site, no appropriate assessment issues arise; and, it is not considered 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. I recommend that permission be **refused**.

## 9.0 **Reasons and Considerations**

1. Having regard to the 'Z1' zoning object for the site which seeks 'to protect, provide and improve residential amenities'; the standards for backland residential development set out in Chapter 13 of the Dublin City Development Plan 2022-2028; the constrained nature of the site; the pattern of development on the laneway and to the rear of No.s 2 to 20 Kildare Road and the restricted width of the laneway; it is considered that the development of a three storey town house/mews, due to its height and design, would constitute overdevelopment of this restricted site, would result in piecemeal and uncoordinated development of the lane, would fail to provide satisfactory private amenity space or parking for future occupants in line with the standards required for the type of development proposed under the Development Plan, would seriously injure the amenities of the area and or property in the vicinity and would result in an undesirable precedent for similar

developments at this location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that safe means of vehicular access has not been demonstrated and that the proposed mews dwelling would add congestion on the laneway and would result in increased pedestrian, cyclist, and commercial vehicle conflict. The proposed development does not comply with the standards for dwellings at backland and/or mews development, in terms of width of the existing laneway, non-provision of in-curtilage car parking and the creation of a traffic safety hazard. In addition, the design and layout of the proposed development does not put forward a positive precedent in that it does not seek to achieve a 5.5m width for the lane along its eastern boundary and it also does not include any defensible space along this boundary. The proposed development would therefore set an undesirable precedent. The proposed development would be contrary to the proper planning and sustainable development of the area.

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Patricia-Marie Young  
Planning Inspector

27<sup>th</sup> day of October, 2022.