



An
Bord
Pleanála

Inspector's Report ABP-314956-22

Development	Provision of a 97.5m ² 2-bed, 2.5 storey mews dwelling with flat roof to front and pitched zinc roof to rear with off-street parking for one car facing Windsor Lane; with new rear garden to proposed dwelling
Location	Site to rear of No. 11 Windsor Avenue, on Windsor Lane, Fairview, Dublin 3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3928/22
Applicant(s)	Croydon Developments Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Thomas Rigney Ruth Hanahoe & Others
Observer(s)	None

Date of Site Inspection

22/03/2023

Inspector

Lorraine Dockery

1.0 Site Location and Description

- 1.1 The subject site previously formed part of the rear garden of No. 11 Windsor Avenue with access onto Windsor Lane. The plot is open land and is bounded to the north by a similar open garden to No. 12 while a single storey domestic garage abuts the site to the south.

2.0 Proposed Development

- 2.1. Permission is sought for the provision of a two-bed, 2.5 storey mews dwelling with flat roof to front and pitched zinc roof to rear, together with off-street parking for one car, with new rear garden to proposed dwelling.
- 2.2. The stated floor area of the proposed dwelling is 97.5m².

3.0 Planning Authority Decision

3.1. Decision

The planning authority GRANTED permission, subject to 13 conditions

Further Information was requested by the planning authority in relation to alternative ground floor design and layout; external screens to deck; transportation matters and submission of Daylight Analysis and Overshadowing Assessment.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The main points of the planner's report include:

- The proposed mews house would have adequate levels of residential amenity following amendments, would not impact unduly on existing amenities and would be consistent with Development Plan policy with regard to mews housing.
- Recommends grant of permission

3.2.2. Other Technical Reports

Road Planning Division- Further Information requested (report dated 13/01/2022);

No objections, subject to condition (report dated 23/09/2022)

Drainage Division- No objections, subject to conditions

4.0 **Planning History**

None

Nearby Sites

2457/20

Permission GRANTED at 7 Windsor Avenue for the construction of a mews dwelling house and associated site development works

5.0 **Policy and Context**

5.1. **Development Plan**

The Dublin City Development Plan 2022-2028 is the operative City Development Plan.

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

Section 15.13.5 Mews

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.

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

Two third party appeals were received, which may be broadly summarised as follows:

- Inadequate response to Further Information request
- Laneway unsuitable for residential development; setting of precedent; design concerns
- Traffic and parking concerns- width of laneway; substandard; inadequate parking; emergency vehicle access
- Residential amenity concerns- separation distances; private open space provision, disabled access, overlooking, overshadowing, excessive to have two entry points to rear garden
- Drainage Concerns- use of FRA from neighbouring site; adequacy of drainage system
- Other Matters- not engaged with neighbouring landowners; encroachment onto neighbouring properties/letters of consent; lack of consent to connect to existing sewerage system; accuracy of drawings/stated dimensions; procedural matters relating to planning authority including weekly list, validation, site notices; previous enforcement matter

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 may be broadly summarised as follows:

- No new planning issues raised
- Responds to/refutes grounds of appeal

7.0 **Assessment**

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

7.2. I note that the proposal was amended by Further Information received by the planning authority on the 05th September 2022 and it is this revised proposal on which I am undertaking this assessment.

7.3. I highlight to the Board that a new City Development Plan was adopted, since the issuing of the planning authority decision.

Policy Context

7.4. Section 15.13.5 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

7.5. In terms of visual amenity, I am generally satisfied with the design approach put forward in this instance. I do not consider the proposal to be excessively dominant, overbearing or obtrusive in its context and I consider that the subject site has capacity to accommodate a development of the nature and scale proposed, without

detriment to the amenities of the area. The utilisation and re-use of such brownfield sites for residential development, within serviced urban areas close to established facilities and services is welcomed in national policy. I do not consider the proposal to be out of character with existing development in the vicinity nor does it represent over-development of the site. I am satisfied that the proposed development is in accordance with the operative City Development Plan in this regard.

Residential Amenity

- 7.6. In terms of impacts on residential amenity, I am cognisant of the relationship of the proposed development to neighbouring properties. A separation distance of in excess of 18 metres is proposed with the property to the rear, No. 11 Windsor Avenue. 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. The operative City Development Plan allows for such flexibility. I am satisfied that impacts on privacy would not be so great as to warrant a refusal of permission and I note that the matter was raised by the planning authority in the further information request and adequately dealt with by the applicant in his response to same. There is an acknowledged housing crisis and this is a serviceable site, in an established city area, where there are adequate public transport links, services, facilities and employment in close proximity.
- 7.7. The proposed house would not unduly overbear or overlook adjoining properties, and would not seriously injure the amenities of property in the vicinity of the site. A Daylight Analysis and Overshadowing Report was submitted with the application. I note that the proposal would overshadow the property to its north, No. 12 Windsor Avenue, primarily at its eastern end (at the laneway end of the garden). This area is currently largely overgrown. However, I acknowledge that if that property were granted a similar type development as that proposed in this current appeal, it would occupy a similar footprint as that proposed, so the degree of overshadowing would not be excessive or unreasonable. This is also the opinion of the planning authority. In designing a new development, it is important to safeguard the daylight to nearby buildings. BRE guidance given is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms. I have had regard to the guidance documents referred to in the Ministerial Guidelines and the

Dublin City Development Plan to assist in identifying where potential issues/impacts may arise. I consider any potential impacts to be reasonable, having regard to the need to provide new homes within an area identified for residential development/compact growth, and increase densities within zoned, serviced and accessible sites, as well as ensuring that the potential impact on existing residents is not significantly adverse and is mitigated in so far as is reasonable and practical.

- 7.8. Adequate private open space is proposed to proposed dwelling, to comply with Development Plan standards. I note the concerns raised in one the appeal submissions questioning the need for two entrances into the rear garden area. I would not concur with this assertion and welcome such accessibility to the private open space. I note that the proposed dwelling complies with the operative Development Plan in terms in internal standards.

Traffic and Parking Matters

- 7.9. I note the concerns raised in the appeal with regards to this matter. I am not unduly concerned in this regard and I note that the planning authority requested further information in relation to this matter and were satisfied with the response received. Given the limited scale of the proposed development (one additional dwelling), I would not anticipate it to lead to the generation of significant volumes of traffic. In-curtilage parking is proposed. The laneway is already in vehicular use as an access to existing sheds and small-scale commercial businesses. The proposal is substantially in compliance with Development Plan standards in this regard, including width of car parking spaces, and the Transportation Division of the planning authority have no objections to the proposal, subject to conditions.
- 7.10. 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.

Other Matters

- 7.11. I am satisfied that there is adequate information on file for me to undertake a comprehensive assessment of the proposal. I have also undertaken a visit of the site and its environs. The planning authority did not raise concerns in this regard.
- 7.12. Concerns have been raised in relation to drainage matters, including adequacy of existing drainage system to cope with proposed development. I note that the

planning authority were not unduly concerned in relation to this matter and that the Drainage Division had no objections, subject to condition. I consider that the matter of drainage could be adequately dealt with by means of standard condition. Given the scale of the development proposed, I do not anticipate that it would lead to significant loading on the existing public system. I have no information before me to believe that the proposal would be prejudicial to public health.

- 7.13. Matters raised in relation to ownership and legal consents are considered to be civil matters outside the remit of this planning appeal. 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.
- 7.14. Issues of validation and enforcement are a matter for the planning authority, outside the remit of this planning appeal.
- 7.15. Matters raised in relation to disability access are considered to be outside of the planning code, within the remit of the Building Regulations, specifically Part M.
- 7.16. While it may be beneficial in some instances, there is no requirement under current planning legislation to consult with adjoining property owners prior to the lodgement of a planning application.

Conclusion

- 7.17. 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 2022-2028, and to the standards for mews development, as set out in section 15.13.5 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 the 05th day of September 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>
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2.	<p>Prior to the commencement of any works on site, the applicant shall submit revised drawings for the written agreement of the planning authority, showing:</p> <p>(a) timber screens, 2 metres in height above finished floor level of the deck and for the depth of the raised deck area, erected to both the northern and southern side boundaries</p> <p>Reason: In the interest of residential amenity</p>
3.	<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. The laneway elevation shall be finished in white brick with white pointing.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>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>
5.	<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>
6.	<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>
7.	<p>Prior to the commencement of development, the developer shall enter into a water and wastewater connection agreement with Irish Water.</p>

	<p>Reason: In the interests of public health</p>
8.	<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>
9.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, machinery storage and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
10.	<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>
11.	<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>
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Note: The applicant is advised to note section 34(13) of the Planning and Development Act, 2000 (as amended) which states that a person shall not be entitled solely by reason of a permission to carry out any development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Lorraine Dockery
Senior Planning Inspector

28th March 2023