



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315861-23

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<b>Development</b>	Protected Structure: Construction of granny flat and all associated site works
<b>Location</b>	16 Leeson Park, Ranelagh, Dublin 6
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	5280/22
<b>Applicant(s)</b>	Edel O'Connor.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party versus decision.
<b>Appellant(s)</b>	Edel O'Connor.
<b>Observer(s)</b>	Maria Lendaro.
<b>Date of Site Inspection</b>	18 June 2023.
<b>Inspector</b>	Stephen Rhys Thomas

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## 1.0 Site Location and Description

1.1. The site is located at 16 Leeson Park, Ranelagh, Dublin 6. Number 16 is a large two storey over basement semi-detached house with fine proportions and noteworthy architectural detailing. The house has been extended to the rear with a modern single storey garden level extension. The position of the proposed dwelling is within the back garden of the house adjacent to a rear laneway. The space is already occupied by a timber shed, car parking area and new boundary walls/gate. The wider area is characterised by historic properties with large rear gardens, some of which have relatively recent mews development whilst others do not. Much further to the north numbers 22 and 23 retain their original two storey mews, however, it would appear that numbers 12-21 were never provided with historic mews accommodation. The laneway is gated at both ends, comprises a tarmac surface and is well maintained.

## 2.0 Proposed Development

2.1. Planning permission is sought for the following:

- Construction of a two storey detached building of 166 sqm, accommodation includes a 'granny flat' at first floor level and a car garage/garden store/hall and toilet at ground floor level.
- Access is by way of a private laneway to the rear of 16 Leeson Park, a Protected Structure.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. The planning authority issued notification to refuse planning permission for two reasons that are set out in full below.

1. The proposed development for the construction of a two storey detached building for the purposes of a 'granny flat', would not comply with the standards for ancillary accommodation set out in section 7.0, Appendix 18 of the Dublin City Development Plan 2022-2028. Generally, the purpose of ancillary family accommodation is to

provide an amenable living area offering privacy, manoeuvrability and independence while maintaining a direct connection to the main dwelling. Usually, there is no exterior difference in appearance between an extension and ancillary family accommodation and is still considered a single residential unit. In this case however the two storey detached structure has no direct connection to the main house and reads as a separate detached dwelling unit. The proposed development would thereby be contrary to the standards set out in Appendix 18 and would set an undesirable precedent for similar developments along this laneway, which would seriously injure the residential amenities of adjoining properties and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development would contravene Policy BHA2 of Section 11.5.1, Policy BHA9 of Section 11.5.3, Section 15.13.5.1 and Section 15.13.5.2 of the Dublin City Development Plan 2022-2028, and would set an undesirable precedent for development within and adjacent to protected structures in the area. The proposal would adversely impact the amenity, special architectural character and setting of the Protected Structure and that of the Residential Conservation Area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The basis of the planning authority's decision can be summarised as follows:

- The applicant does not meet the criteria for ancillary family accommodation. The development is a standalone residential unit.
- Issues of overlooking and overshadowing are not considered to be problematic.
- The design is modern, but fails to meet the requirements of policy BHA2 and BHA9, and would not compliment the character of the area.

#### **3.2.2. Other Technical Reports**

Transportation Planning – no objections subject to conditions.

Conservation Officer – The application does provide details of the shed and boundary walls and works to same. The provision and position of a mews type structure is supported. The proposed structure is at odds with other buildings on the laneway, out of character material selection and form, and would contrast with the protected structure on site and the conservation area in general. Refuse permission.

Drainage Division - no objections subject to conditions.

### **3.3. Prescribed Bodies**

None.

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

- 3.4.1. A single observation, main issues include, loss of privacy, access concerns, queries over use of accommodation, building line not maintained, boundary wall concerns and the impact to a protected structure.

## **4.0 Planning History**

### **4.1.1. Appeal Site**

PA ref – 3446/15 Permission for change of use from multi-unit to a single family residence, including renovations, alterations and the construction of a 40sqm rear extension along with all associated site works.

## **5.0 Policy Context**

### **5.1. Development Plan**

- 5.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2022-2028.

The site is located on lands that are zoned Z2 - To protect and/or improve the amenities of residential conservation areas. The principal land-use encouraged in residential conservation areas is housing but can include a limited range of other uses. In considering other uses, the guiding principle is to enhance the architectural quality of the streetscape and the area, and to protect the residential character of the

area. The appeal site is also located on the grounds of a Protected Structure, RPS Ref number 4326.

BHA1 - Record of Protected Structures

BHA2 - Development of Protected Structures

BHA9 - Conservation Areas

Section 15.13.5 Mews

15.13.5.1 Design and Layout

15.13.5.2 Height, Scale and Massing

15.13.5.3 Roofs

15.13.5.4 Access

Appendix 18 – Section 7.0 Ancillary Family Accommodation

Ancillary family accommodation refers to a subdivision or extension of a single family dwelling unit to accommodate an immediate family member for a temporary period (e.g. elderly parent) or where an immediate relative with a disability illness or specific temporary housing need may need to live in close proximity to their family.

Generally, the purpose of ancillary family accommodation is to provide an amenable living area offering privacy, manoeuvrability and independence while maintaining a direct connection to the main dwelling. Usually, there is no exterior difference in appearance between an extension and ancillary family accommodation and is still considered a single residential unit.

Ancillary family accommodation should:

- Be contained within the existing unit or provided as an extension to the main dwelling (exempted development principles for residential extensions can apply where applicable. Where an extension is not exempt, planning permission is required).
- Preferably have a direct connection to the main home.
- Not be let separately for the purpose of rental accommodation.
- Not be a separate detached dwelling unit.

- Be reintegrated back into the original unit when no longer occupied by a member of the family.

Conditions will be attached to the permission limiting the use of the accommodation for ancillary family use only on a temporary basis.

## 5.2. **Natural Heritage Designations**

5.2.1. None relevant to this site.

## 5.3. **EIA Screening**

5.3.1. Having regard to the nature and scale of the proposed development, comprising a rear garden house, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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 appealed the decision of the planning authority, the grounds of appeal can be summarised as follows:

- The planning authority state that the proposed building will not have any adverse impacts upon residential amenity from an overlooking or overshadowing perspective. The first reason for refusal relates to the description of the development as a granny flat and the failure to meet those criteria. The dwelling is more akin to a mews in the traditional sense in terms of storing vehicles and housing staff. It is however, noted that the development plan description of ancillary family building is to provide amenable living area.
- The Conservation Officer's comments are noted, but the applicant believes their design is purposefully modern. Appendix 18 of the Development Plan, under general design principles, urges the use of similar or contrasting

materials and finishes. The proposed development uses contrasting materials, finishes and styles. In terms of the materiality of the laneway, perhaps granite is the dominant material, being mainly boundary walls. There are other buildings, further along the laneway and material use range from brickwork, render and timber cladding. As there is already a steel and glass rear extension then there is scope for the proposed building too.

- As for precedent, if the applicant's proposal were permitted, it would set a more desirable precedent than number 15b, both in terms of set back and form.
- Existing boundary walls between properties will remain, however, the boundary wall to the lane will be removed.
- The use of the dwelling will be for members of the household, not third parties, a condition requiring same would be acceptable to the applicant.

## 6.2. **Planning Authority Response**

None.

## 6.3. **Observations**

An observer located at 15b Leeson Park, the adjacent dwelling to the south, has lodged an observation that reiterates the concerns raised in their initial submission to the planning authority, the issues include:

- The proposed building does not conform with its description or the development plan policies for granny flat accommodation. The applicant's explanations as to use are vague.
- There will be a loss of privacy through overlooking of the rear garden.
- The scale, design and form of the dwelling is out of character with the conservation area and the protected structure on the site.
- Boundary wall stability if construction occurs.



## 7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principal of Development
- Ancillary family accommodation
- Architectural Heritage
- Other Matters
- Appropriate Assessment

### 7.2. **Principal of Development**

7.2.1. The appeal site is located on lands that are subject to zoning objective Z2 Residential Neighbourhoods (Conservation Areas) in the Dublin City Development Plan 2022-2028, the objective of which is to protect and/or improve the amenities of residential conservation areas. The principal land-use encouraged in residential conservation areas is housing, subject to the architectural quality of the streetscape, and to protect the residential character of the area.

7.2.2. The planning authority question the use of the development that is proposed and are concerned about the form, design and scale of the building close to a protected structure and within a conservation area. Specifically, the planning authority are not satisfied that all of the criteria for ancillary family accommodation are met, and the design, scale and form of the house goes against the built heritage policies of the plan. An observer, a neighbour of the appeal site, agrees with the decision of the planning authority in every regard and adds loss of privacy as an issue. All of these matters are assessed in the following sections of my report. However, in terms of the principle of residential development at this location on Z2 zoned lands, the development plan is supportive and provides guidelines for applicants. I am satisfied that the principle of residential development is acceptable at this location.

### 7.3. **Ancillary family accommodation**

- 7.3.1. The planning authority have refused permission on the basis that the proposed dwelling fails to meet all the criteria set out in the Development Plan with reference to 'granny flats', section 7.0, Appendix 18 of the plan refers. The applicant explains that the purpose of the dwelling is to home members of the household (staff) and provide shelter for vehicles. It is the applicant's view that the proposed dwelling will act as a mews in the historic sense and as described in the development plan.
- 7.3.2. The applicant selected to describe their development as a 'granny flat' in the public notices, and this has caused the planning authority to view it as such and refuse permission. The applicant selected not to apply for some other form of development such as backland housing, a form of development supported by the Development Plan as this would've required separate private amenity areas amongst other things. It is clear that the applicant means to maintain a connection between the main house on the site and the one proposed. Therefore, taking each of the criteria set out under ancillary family accommodation, the plan advises that the following elements should be considered:
- Be contained within the existing unit or provided as an extension to the main dwelling (exempted development principles for residential extensions can apply where applicable. Where an extension is not exempt, planning permission is required). Clearly, the proposed development is not an extension to the main dwelling.
  - Preferably have a direct connection to the main home. It is a preference but not mandatory that ancillary family accommodation should have a direct connection. In this instance, there will be no built connection between the new dwelling and the main dwelling, but access is not inhibited and a walk across the rear garden provides a direct connection. I am satisfied that this direct connection has been interpreted well enough by the applicant and is acceptable.
  - Not be let separately for the purpose of rental accommodation. The applicant has stated that the dwelling will not be in third party use, a condition could manage this.
  - Not be a separate detached dwelling unit. The proposed development is clearly a separate dwelling unit. However, I note that the standards as they

are set out refer to what should be the case with respect to ancillary family accommodation. In my mind these standards that should be met but are not mandatory.

- Be reintegrated back into the original unit when no longer occupied by a member of the family. The applicant has indicated in their grounds of appeal that they will accept a condition to control the use of the dwelling for purposes ancillary to the main dwelling and not to be sold separately.

7.3.3. The planning authority have assessed the application in terms of the criteria set out above and refused permission because not all the standards set out in Appendix 18 are met. However, because of the particular characteristics of the site, I am prepared to apply an amount of flexibility and interpretation in this instance.

7.3.4. The rear gardens of houses along Leeson Park are very large and commodious. Houses to the south of the appeal site have already built detached dwellings in their rear gardens without any adverse impacts to either residential amenity or damage to the integrity of architectural heritage. The planning authority have not raised any issues to do with adverse impacts upon residential amenity, rather it is the failure to meet the criteria of an ancillary family accommodation that forms the basis of the first reason for refusal.

7.3.5. The applicant has stated that they are prepared to accept a condition that controls the use and future status of the dwelling and I am satisfied that a condition can be attached in that regard. As a standalone building, the proposed dwelling does not take the recognisable form of a 'granny flat' attached to some other more modestly scaled dwelling. However, the particular merits of the appeal site are that it is a large garden site to the rear of a large dwelling already extended. I suggest that if an ancillary family accommodation type unit were attached in a linear form to the rear of number 16, it may well create residential amenity issues for neighbouring property that simply will not occur with the proposed development.

7.3.6. I note that the neighbour to the south at 15B has made an observation and primarily raises issues of loss of privacy and overlooking. However, I note that the planning authority did not raise the same concerns in their planning assessment. In terms of the position of the dwelling in the subject appeal, it will be built hard up to the boundary of the private lane and its footprint fills the westerly portion of the rear

garden. Because of this forward building line, and a lack of gable windows there is no opportunity for overlooking. Furthermore, the eastern elevation windows at first floor coincide with the front edge of 15B and this acts as a significant barrier to any opportunity to overlook the rear garden of 15B. At present, numbers 15, 16 and 17 already directly overlook the rear garden of 15B and the erection of the proposed dwelling will not make matters any worse. I anticipate no adverse impacts to the residential amenities of neighbouring properties because the position of the dwelling proposed remote from other housing and its design and form will ensure that residential amenities will not be adversely impacted upon.

#### **7.4. Architectural Heritage**

- 7.4.1. The second reason to refuse the development advanced by the planning authority is in relation to the development plan and its objectives that concern built heritage. The observer to the appeal also agrees with this approach. The applicant points out that a modern extension has already been permitted and constructed and it causes no harm to the integrity of the protected structure on site. In addition, the applicant argues that the design, form and scale of the proposed dwelling is a modern interpretation of a mews building, as it will house family members/staff and vehicles. As for precedent, the applicant points out that the position and building line of their proposal is preferable to that of number 15B/15A to the south.
- 7.4.2. The appeal site comprises the house and gardens of a protected structure and as such I note the report prepared by the Council's Conservation Officer. In their view the provision and position of a mews type structure is supported, but the structure is at odds with other buildings on the laneway, in terms of being out of character, poor material selection and form, and would contrast with the protected structure on site and the conservation area in general. This seems to me to be a subjective opinion on the design of the proposed development. In general, it is recognised that when considering the design approach to either an extension or new building within the curtilage of a protected structure, a modern and contemporary design is best as it clearly distinguishes between what is original and what is new. In the case of the subject appeal site, the existing steel and glass single storey extension follows this generally accepted rule. I note that Conservation Officer is not too concerned about the location of the proposed dwelling, and I have already considered that residential amenity is not an issue.

- 7.4.3. The single matter of concern in relation to reason number two is whether a two storey modern and contemporary dwelling in the rear garden of a protected structure and facing out onto a laneway is at odds with Policy BHA2, Policy BHA9, Section 15.13.5.1 and Section 15.13.5.2 of the Dublin City Development Plan 2022-2028. Looking at each element in turn:
- 7.4.4. Policy BHA2 – The dwelling will be located away from rear elevation of the main building on site and has been designed in the context of the Architectural Heritage Protection Guidelines. There are no works to the main dwelling on site and the historic boundary walls will not be impacted upon. The proposed dwelling is lesser in terms of scale to the main dwelling on site and will not impact the curtilage or the special character of the protected structure. The residential uses proposed are entirely in character with the main dwelling.
- 7.4.5. Policy BHA9 – I anticipate that the proposed dwelling will create the pattern for future development along this private laneway and thus enhance the character and appearance of the area and its setting. The proposed materials, white brick, timber cladding, steel cladding and expansive areas of glass will set the building apart. As there are no other traditional mews buildings in the immediate vicinity, this is acceptable. Boundary walls are to be retained and this is acceptable, in particular I note that the rear boundary wall to the property already comprises a modern sliding gate, modern brick piers and newly constructed granite stone coursed wall.
- 7.4.6. Section 15.13.5.1 Design and Layout – The proposed dwelling conforms with the aim of the plan for high quality contemporary design for mews buildings.
- 7.4.7. Section 15.13.5.2 Height, Scale and Massing – the proposed dwelling will be subordinate in height and scale to the main building on site. The new dwelling has a flat roof with an overall parapet height that is below the adjacent mews type dwelling at 15B and 15A to the south. In my view the proposed dwelling will create the form and building line for development along this private laneway should it occur in the future.
- 7.4.8. Given the foregoing, I am satisfied that the proposed development would not contravene Policy BHA2 of Section 11.5.1, Policy BHA9 of Section 11.5.3, Section 15.13.5.1 and Section 15.13.5.2 of the Dublin City Development Plan 2022-2028.

## 7.5. Other Matters

7.5.1. As the proposed dwelling will be ancillary to the main dwelling on the site, I recommend the attachment of conditions that require its use and future planning status to be as such. It is not to be considered a separate dwelling and therefore, will not require separate water service connections, drawing labelled *Existing-Proposed Site Layout Plans* and dated 16/11/2022 details water service connections. There is an existing vehicular entrance onto a private laneway and so therefore any conditions with regard to road opening and works required are unnecessary.

#### 7.6. **Appropriate Assessment.**

7.7. Having regard to the minor nature and scale of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

### 8.0 **Recommendation**

8.1. Having regard to the above assessment, and based on the following reasons and considerations, it is recommended that permission be granted subject to conditions.

### 9.0 **Reasons and Considerations**

Having regard to the pattern and character of existing development in the area, the design and scale of the development proposed, and the provisions of the Dublin City Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in accordance with the zoning objective for the site, would not detract from the visual amenity of the area, and would not seriously injure the residential amenity of surrounding properties and would not endanger public safety or convenience by reason of traffic generation or otherwise. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed granny flat/staff accommodation dwelling shall be used solely for that purpose, and shall revert to use as part of the main dwelling on the cessation of such use.

Reason: To protect the amenities of property in the vicinity.

3. The granny flat/staff accommodation dwelling shall not be separated from the main house. It shall not be sold or let independently of the main house and, when no longer required for use as a granny flat/staff accommodation dwelling, use of that part shall revert to use as part of the main house.

Reason: In the interest of residential amenity.

4. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times

will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

8. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

9. The 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 including noise management measures and off-site disposal of construction/demolition waste.

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

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the



Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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.

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Stephen Rhys Thomas  
Senior Planning Inspector

19 June 2023