



An
Bord
Pleanála

Inspector's Report ABP-315963-23

Development

The provision of a 79sqm 2-bed, 2.5-storey mews dwelling with flat roof to front and pitched zinc roof to rear. New timber fences to sides of rear garden boundaries and off-street parking for 1 car facing Windsor Lane.

Location

Site to rear of No. 13 Windsor Avenue on Windsor Lane, Dublin 3.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

WEB1832/22.

Applicant(s)

Croydon Developments Ltd.

Type of Application

Permission.

Planning Authority Decision

Grant Permission.

Type of Appeal

Third Party

Appellant(s)

Ruth Hanahoe and Paddy Cooney & Robert Kavanagh and Monica Forrestall

Observer(s)

None.

Date of Site Inspection

31st May 2023.

Inspector

Adam Kearney.

1.0 Site Location and Description

1.1. Site is located c. 3km northeast of Dublin City Centre in Fairview. The site is to the rear of No.13 Windsor Avenue (rear garden) and fronts onto Windsor Lane which serves as a rear access to the dwellings of Windsor Avenue. Windsor Lane is accessed via an archway from Fairview Avenue Lower. The area is largely residential, Fairview Park is circa 150m south and Fairview village 100m south offering a variety of retail/restaurants. The area is well served by public transport with a variety of bus routes serving the area and a dart station on Clontarf Rd 800m away.

2.0 Proposed Development

2.1. The provision of a 79 sq. m 2-bed, 2.5-storey mews dwelling with flat roof to front and pitched zinc roof to rear. New timber fences to sides of rear garden boundaries and off-street parking for 1 car facing Windsor Lane

3.0 Planning Authority Decision

3.1. Decision

On the 7th Feb 2023 Dublin City Council decided to GRANT permission subject to 12 conditions

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Proposal broadly the same as constructed mews to the rear of no. 7.
- Design approach of dwelling acceptable.
- Private open space provision acceptable.
- No evidence of Multi Occupancy at No.13 Windsor Avenue.
- Access considered appropriate with 5.5m width of lane to be stipulated by way of condition.

- Masterplan sought at FI but as per response could not be provided as there are different landowners.
- Access for fire tender queried and response considered acceptable.

3.2.2. Other Technical Reports

Transportation Planning Division report received, dated 18-Oct-2022: recommended requesting additional information

- submit revised drawings demonstrating that the proposed development front building line in its entirety is set back to ensure a minimum 5.5 metres
- The applicant is requested to submit revised ground floor plans demonstrating that an unrestricted car parking area of 3.0 (width) by 5.0 metres length is provided inc. refuse and bicycle parking.
- The revised plans should be accompanied by amended swept path analysis drawing.
- The applicant is requested to submit an indicative Masterplan Layout of Windsor Lane.
- Clarification required around fire tender access.

Response was considered and deemed acceptable with outstanding issues to be dealt with by way of condition.

4.0 Planning History

4.1. Subject Site History

3500/22 - Application for the retention and completion of a 42sqm two-storey extension to the rear and a rear-facing dormer window to the existing roof.

Outcome: Permission Granted for retention with conditions.

3914/21 - Application for the removal of existing rear single-storey scullery and provision of 42 sq.m two-storey extension to the rear and a rear-facing dormer window to the existing roof: The provision of a 79 sq.m 2-bed 2.5-storey mews dwelling with flat roof to front and pitched zinc roof to rear. New timber fences to

sides of rear garden boundaries and off-street parking for 1 car facing Windsor Lane; division of the site with revised rear gardens to existing and proposed dwellings.

Outcome: Application Withdrawn following request for additional information.

4.2. **Nearby History**

3787/21 - Rear of No's 15-16 Windsor Avenue

Permission for demolition of the existing rear single-storey garages to each site and the construction of 3 No. two-bed 2.5-storey mews dwellings with off-street parking for 1 car to each mews. Flat roofed to front with pitched zinc roof to the rear. New timber fences to rear garden boundaries.

Outcome: Application Withdrawn

3928/21 - Site to rear of 11 Windsor Avenue

Application for the provision of a 97.5sqm 2-bed, 2.5 storey mews dwelling with flat roof to front and pitched zinc roof to rear with off-street parking for 1 car facing Windsor Lane; with new rear garden to proposed dwelling.

Outcome: Permission Granted with conditions. Appeal Pending **ABP-314956-23**

2457/20 - Rear of 7 Windsor Avenue

Application for the removal of the existing rear single-storey scullery and provision of a 55sqm two-storey extension to the rear and a rear-facing dormer window to the existing roof. The provision of a 3-bed, 2.5-storey mews dwelling with off-street parking for 1 car facing Windsor Lane, division of the site with revised rear gardens to existing and proposed dwellings.

Outcome: Permission Granted with conditions.

5.0 Policy and Context

5.1. S28 Ministerial Guidelines

Quality Housing for Sustainable Communities 2007

Planning system and Flood Risk Management Guidelines for Planning Authorities
2009

5.2. Development Plan

Dublin City Development Plan 2022 – 2028

Policy SI20 - Basement Flood Risk Management *That there is a general presumption against the development of basements for residential use below the estimated flood levels for Flood Zones A or B*

Section 15.18.4 Basements

It is the policy of Dublin City Council to generally discourage any significant underground or basement development or excavations below ground level of, or adjacent to, residential properties in Conservation Areas or to protected structures. Development of basements for residential use below the estimated flood levels for flood zone areas 'Zone A' or 'Zone B' will not be permitted (Policy SI20).

Section 15.13.5

Historic mews structures mainly comprised stabling with living quarters were typically two-storey in height and had an integral carriage arch for access. During the 20th Century, many older mews structures were adapted for warehouse or garage use. Mews dwellings are an integral part of backland development across the city. Mews dwellings are typically accessed via existing laneways or roadways serving the rear of residential developments. Many historic mews buildings remain within the curtilage of protected structures and are, therefore, also afforded statutory protection. The relationship between the historic main house and its mews structure remains a relevant consideration for architectural heritage protection. Dublin City Council recognises the increasing rarity of stone/brick coach houses and the need to

retain and conserve all of the surviving examples. Proposals to demolish such buildings will generally not be accepted.

It is an objective of the City Council to protect the character and setting of mews dwellings and to ensure all new proposals are respectful and appropriate in its context; see also Policy BHA14 and

Objective BHA05 in Chapter 11. Applications for mews development should consider servicing, including the impact on existing infrastructure such as waste and water systems.

Section 15.13.5.1 Design and Layout

Dublin City Council will actively encourage schemes which provide a unified approach to the development of residential mews lanes and where consensus between all property owners has been agreed. This unified approach framework is the preferred alternative to individual development proposals. Individual proposals however, will also be considered and assessed on a case by case basis. Traditional and/ or high-quality contemporary design for mews buildings will be considered. The materials proposed should respect the existing character of the area and utilise a similar colour palette to that of the main structure.

The distance between the opposing windows of mews dwellings and of the main houses shall ensure a high level of privacy is provided and potential overlooking is minimised. In such cases, innovative and high-quality design will be required to ensure privacy and to provide an adequate setting, including amenity space, for both the main building and the mews dwelling.

Private open space shall be provided to the rear of the mews building to provide for adequate amenity space for both the original and proposed dwelling and shall be landscaped so as to provide for a quality residential environment. The open space area shall not be obstructed by off-street parking.

If the main house is in multiple occupancy, the amount of private open space remaining after the subdivision of the garden for a mews development shall meet both the private open space requirements for the main house divided into multiple dwellings and for mews development.

With regard to Protected Structures, where new boundary walls are proposed between the principal building and the associated mews / coach house, the proposed boundary line should be located at an appropriate distance from the building line of the Protected Structure so as to provide an appropriate amenity space for the Protected Structure.

The form and layout of the new development of mews structures should:

- Acknowledge the historic building plots where possible. Where a proposal extends over more than one building plot, articulation in the design and layout should be introduced to make reference to the original plot layout. The amalgamation or subdivision of plots on mews lanes will generally not be encouraged.
- The existing building line should be maintained where possible. The rear building line of new mews developments should be consistent with the existing mews plots where possible.
- The sensitive adaptive reuse of existing and new mews buildings for residential purposes will be encouraged and promoted.

Section 15.13.5.2 Height, Scale and Massing

New buildings should complement the character of both the mews lane and main building with regard to scale, massing, height, building depth, roof treatment and materials. The height of mews building should not negatively impact on the views from the main property. Development will generally be confined to two-storey buildings. In certain circumstances, three-storey mews developments incorporating apartments will be acceptable, where the proposed mews building:

- is subordinate in height and scale to the main building.
- is maintaining the established height of existing mews roof ridgelines.
- has an acceptable level of open space and where the laneway is suitable for resulting traffic conditions.
- has sufficiently sized apartment units in line with the relevant Section 28 guidelines.

This is in line with national policy to promote increased residential densities in on serviced land in proximity to the city centre. Proposals for an additional set back level may be considered on a case-by-case basis where the additional floor is integrated within the pitched roof element of the structure or where the design and form is contemporary. The set-back should be a minimum of 1.5 metres from the front building line.

Section 15.13.5.3 Roofs

The roof profile for mews buildings should be simple and in keeping with the character of the area. The following roofs are suitable: flat green or low-pitch metal roofs and double pitched slate roofs similar to the surviving mews building. All pitched roofs should run parallel with the mews lane with no ridge lines running perpendicular to the lane. New development should not break the legibility of the form of the original coach house terrace.

Section 15.13.5.4 Access

Parking provision in mews lanes, where provided, may be in off-street garages, forecourts or courtyards, subject to conservation and access criteria. Car free mews developments may be permitted in certain circumstances where there are specific site constraints and where alternative modes of transport are available. Each development will be assessed on a case-by-case basis. Potential mews laneways must provide adequate accessibility in terms of private vehicular movements, emergency vehicles and refuse vehicles. Where access cannot be provided, an access and movement strategy must be provided to justify that the development can be adequately served. See Appendix 5 for further details.

All mews lanes will be considered to be shared surfaces, and footpaths need not necessarily be provided. Where historic materials exist, roof materials, stone, paving surfaces, windows, joinery, ironmongery etc. these should be retained in order to protect the special character of the original mews lanes

5.3. **Natural Heritage Designations**

None relevant.

5.4. **EIA Screening**

5.5. The proposed development is minor in nature with the provision of 1 no. Mews dwelling and is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

Validation of application

- claims of insufficient public notification on Windsor Avenue
- No consents for works to Windsor Lane
- Inaccurate data

Development Standards

- Only 1 parking space provided.
- Inadequate private open space for No. 13 and the new dwelling.
- Undercroft parking bay substandard.
- Ground floor WC not accessible.
- Living area proposed is substandard below ground level and dependent on high level windows.
- Room areas not achievable as the gables are encroaching on No. 12 & 14 without permission.

- Insufficient storage.
- Combined living areas below minimum standards.
- Laneway has insufficient width for residential development.
- questions around ability of fire tenders to access.
- Overlooking concerns due to design.
- Concerns raised about combined sewer.
- Refuse disposal arrangements questioned.

6.2. Applicant Response

- None

6.3. Planning Authority Response

- No Response

6.4. Observations

- No Observation in regard to the appeal.

6.5. Further Responses

- No further response

7.0 Assessment

From my assessment of the file and having visited the site, it is my view that the main planning issues pertain to some issues raised in the grounds of appeal around design & layout and a new issue that of flood risk. It is noted that there are queries

raised with regard to the validation and while the points are acknowledged the Local Authority are responsible for the validation of applications.

7.1. Design & Layout

7.1.1. The principle for development for mews type dwellings is accepted at this location and the provision of additional dwelling units on serviced urban land is in accordance with sustainable compact living.

7.1.2. In terms of development standards, the original application was stated as having a floor area of 79 sq m and 2 No. Bedrooms with capacity for 4 persons (4P). However, the overall width of the building was reduced in the further information response to c.4.5m from c.5m. This was a response to boundary constraints and is a significant revision that was not addressed in the final planner's report. I estimate that overall, the floor area has reduced to c.74 sq. m as a result. This is now significantly less than the recommended minimum 80m² required for a 4P 2 Bedroom dwelling (Quality Housing Guidelines). The current area equates more to a 2 Bedroom 3P dwelling with a recommended minimum area of 70m².

Moreover, the combined living area is now circa 24m² over 2 floors whereas the minimum advised is 30m² for a 4P units and 28m² for a 3P unit. In terms of sleeping quarters the main bedroom for a dwelling with a capacity at 3P or more should be 13m² whereas the proposal area is 11.5m² inclusive of a fitted press and in terms of the minimum width for a bedroom is only 2.27m wide, significantly below the minimum of 2.8m for double bedrooms.

In terms of sanitary facilities, the constraints of the reduced building width coupled with the difficulties of accommodating a car port in a narrower form structure have had the effect of reducing the size of the downstairs WC to a room that is not accessible for the purposes of part M.

7.1.3. I note the reduction in the overall width of the building has impacted the configuration of the car port which has changed to a more tapered shape, it is difficult to envisage how this area can accommodate a vehicle let alone refuse storage and bicycle parking. There could be a case made for zero parking (CDP Section 15.13.5.4) given

the lane width and the sites urban context, however there is no such proposal before the board or detailed justification to support such an approach.

7.1.4. I believe the current dwelling proposal cumulatively to be a substandard design in terms of S28 Guidelines (Quality Housing for Sustainable Communities 2007), I also believe the front elevation provides little in the way of passive surveillance and a replication of this form of development along the lane will have an overall deleterious impact.

7.1.5. With regard to the physical attributes of Windsor Lane I note there are concerns around the overall width and the desire to have developments adhere to a 5.5m laneway fronting the dwellings. A contiguous elevation produced as a response to the FI request illustrates the planning status of each plot on the lane. However, it fails to detail the full status of each with withdrawals included (3787/21 & 3914/21) and other application under appeal (3928/21/ABP-314956-23), as such I consider a strong precedent is yet to be established for development of Windsor Lane at this juncture. I specifically point to a proposal for 3 no. mews dwellings under Planning Ref. 3787/21 where prior to being withdrawn there was a request for a Flood Risk Assessment and consideration to be given to 2 more substantial dwellings rather than 3 no. narrow plan structures.

7.2. Flood Risk

7.2.1. With regard to flood risk, a site-specific flood risk assessment (SSFRA) was undertaken as part of the subject application but as far as I can determine the report was not considered in the planner's report and/or may have been overlooked by the drainage section. Section 5.2 of the SSFRA (p25) states that *'the majority of the development will be constructed at or above existing ground levels apart from a small underground store constructed as part of the mews development that will be constructed approx. 1.2m below existing ground level at 2.175mOD'*.

7.2.2. This assertion appears to be incorrect. From the original drawings and the revised plans there is a storage area of 3m² and a living area of 13m² (reduced to 12m² at

FI stage) at basement or lower ground level. This translates to effectively 20% of the proposed dwelling as revised at FI stage.

7.2.3. Moreover Section 6.4.1.1 (p33) of the SSFRA deems part of the subject site to be within Flood Zone B circa 3.33m OD. The proposed FFL of the lower ground floor/basement is substantially below this at 2.175mOD

7.2.4. The proposed dwelling as designed is contrary to Section 15.18.4 Basements

It is the policy of Dublin City Council to generally discourage any significant underground or basement development or excavations below ground level of, or adjacent to, residential properties in Conservation Areas or to protected structures. Development of basements for residential use below the estimated flood levels for flood zone areas 'Zone A' or 'Zone B' will not be permitted (Policy SI20).

7.3. **Appropriate Assessment Screening**

Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

8.0 **Recommendation**

I recommend that permission is Refused for the reasons and considerations set out hereunder:

9.0 **Reasons and Considerations**

The site is located in an area at risk from coastal flooding where vulnerable below ground residential development is contrary to the Dublin City Development Plan Section 15.18.4 '*basement development for residential use below the estimated flood levels for flood zone areas 'Zone A' or 'Zone B' will not be permitted* (Policy

SI20). As such the provision of a dwelling incorporating a basement living area would be contrary to the proper planning and sustainable development of the area.

The design of the dwelling as proposed is considered sub standard in terms of the S28 guidance (Quality Housing for Sustainable Communities (2007)) and in terms of the inactive frontage that would not contribute to natural surveillance of the laneway. The proposed development would, therefore, provide substandard residential amenity for future occupants of the proposed dwelling and would be contrary to the proper planning and sustainable development of the area.

- 10.0 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.

Adam Kearney

Planning Inspector

30th June 2023