



An  
Bord  
Pleanála

## Inspector's Report PL29S.247776

### Development

Demolition of existing domestic garages, construction of two-storey mews dwelling with first floor terrace, garden area and a single off-street car parking space. Alterations to existing boundary wall to provide separate pedestrian and vehicular entrance and associated works.

### Location

The Garages, Carlisle Avenue to the rear of 63 Marlborough Road Donnybrook Dublin 4 (Protected Structure).

### Planning Authority

Dublin City Council

### Planning Authority Reg. Ref.

3885/16

### Applicant(s)

John & Ruth Rock

### Type of Application

Permission.

### Planning Authority Decision

To Grant Permission

### Type of Appeal

Third Party

### Appellant(s)

Carlisle Ave UGT Company Ltd.

### Date of Site Inspection

April 6<sup>th</sup>, 2017.

### Inspector

Breda Gannon

## 1.0 Site Location and Description

- 1.1. The site is located on Carlisle Avenue, Donnybrook Dublin 4. It forms part of the original curtilage of 63 Marlborough Road, a Protected Structure, located to the south. The rectangular shaped site, with a stated area of 117m<sup>2</sup> accommodates a structure with three garage doors opening onto Carlisle Avenue. The building is single storey, with a brick façade and a tiled roof covering. A rubble granite wall with brick capping extends from the garages along Carlisle Avenue to the rear of the protected structure, with a doorway providing access to the rear garden of the protected structure. The site is adjoined to the northeast by the rear garden of No. 61 Marlborough Road and to the northwest by a laneway providing access to a single house and the rear of adjacent properties.
- 1.2. No 63 Marlborough Road is a mid-nineteenth century end of terrace house. It is three-storey with stepped access to first floor level. There is a more recent single storey extension to the rear and a high wall forms the common boundary with the adjoining property at No. 61. The rear garden is separated from the appeal site by a recently erected wooden fence. The house is in single family occupancy.
- 1.3. Carlisle Avenue is a quiet residential area with two-storey Victorian dwellings. The terraced dwellings, which have retained their front gardens and railings are arranged around a private residents' garden, which is also enclosed by iron railings.
- 1.4. Both Carlisle Avenue and Marlborough Road form part of a larger Residential Conservation Area.

## 2.0 Proposed Development

- 2.1. The proposal as described in the public notices comprises the following;
  - Demolition of existing domestic garages and construction of a two-storey two bedroom mews dwelling with first floor terrace, garden area and a single off street car parking space.
  - Alterations to the existing boundary wall to Carlisle Avenue to provide separate pedestrian and vehicular entrances, landscaping and all associated works.

- The development will take place on Carlisle Avenue and at the rear of 63 Marlborough Road, a Protected Structure.

### 3.0 Observers

Submissions were received from a number of observers who raised similar issues to those raised in the appeal, which will be considered below in the assessment.

### 4.0 Planning Authority Decision

- 4.1. The planning authority decided to grant permission for the development subject to 9 no. conditions. Apart from standard type construction/engineering conditions, the decision includes the following conditions of note;

**Condition No 2** – Development contribution.

**Condition No 8** – Driveway entrance shall be at least 2.5m or at most 3.6m in width and shall not have outward opening gates.

#### 4.2. Planning Authority Reports

##### 4.2.1. Planning Reports

The **Planning Officer's** report of 24<sup>th</sup> November, 2016 notes that the scale and internal layout of the house is in accordance with the guidance set out in the DEHLG guidelines. Although the separation distance of 16m between opposing first floor windows does not meet the recommended 22m, the proposed window is at a high level, which will mitigate against overlooking. There are no windows on the eastern or northern elevations, which prevents overlooking of adjacent properties at No. 61 Marlborough Road and No.1 Carlisle Avenue. Terraces are shown adjacent to the bedrooms at first floor level and facing onto Carlisle Avenue. Given the design and orientation of the terrace, it is not considered that they will result in overlooking of adjacent properties.

The height of the proposed dwelling at 5.7m is approximately 0.8m higher than the existing garages but significantly lower than the adjacent properties. A shadow analysis was submitted with the application. It is considered that the increase in the

mass on the site may result in some overshadowing but due to the orientation of the site, it will not result in undue negative impact on neighbouring properties. Parking for one car is incorporated into the design and is provided within the site.

It is proposed to reconstruct the granite boundary wall that will be removed to facilitate construction. It is considered that it would provide a more attractive boundary to the site. The house would be constructed inside the repaired boundary wall. Although the contemporary design of the house differs from the existing pattern of development, its layout and finishes have been well thought out, and as such it is considered that the proposal would not have a negative impact on the amenity or architectural quality of the Z2 area or the character and setting of the protected structures in the area.

#### 4.2.2. Other Technical Reports

The **Roads & Traffic Planning Division** report of 16<sup>th</sup> November, 2016 raised no objection to the development subject to conditions.

The **Drainage Division** report of 7<sup>th</sup> November 2016 raised no objection to the development subject to conditions.

## 5.0 Planning History

**2589/16** – Planning permission refused for the demolition of existing domestic garages, construction of a two storey 3 no. bedroom mews dwelling with first floor terrace, garden area and a single off-street car parking space and alterations to existing boundary wall to provide separate pedestrian and vehicular entrances, landscaping and associated works. The reason for refusal related to the failure to provide an adequate level of private open space for the amenity of the proposed dwelling and the existing house, which was considered would result in a significant negative impact on the character and setting of the protected structures, would seriously impact on the amenity of residences and set a precedent for similar development. It was concluded that the development would contravene the Z2 zoning objective 'To protect and/or improve the amenities of residential conservation areas'.

**3735/14** – Permission granted by the planning authority and refused by An Bord Pleanala (PL 29S.244877) for the demolition of a modern single-storey return to No 63 Marlborough Road and the associated garages accessed from Carlisle Avenue and for the construction of a two-storey 2 No. bedroom mews dwelling to the rear of the site, alterations to boundary wall etc on the grounds of inadequate private open space provision which would result in a substandard development that would contravene the Z2 zoning objective.

## 6.0 Policy Context

### Development Plan

The operative development plan is the **Dublin Council Development Plan 2016-2022**. The site is located in an area zoned 'Z2 Residential Conservation Areas' with the following objective;

*'To protect and/or improve the amenities of residential conservation areas.'*

Residential use is a permitted use in this zoning category.

Standards for Residential Accommodation (houses) are set out in Section 16.10.2, and Mews Dwellings at 16.10.16.

Volume 4 of the Plan contains the Record of Protected Structures. The policies in relation to Protected Structures are set out in Section 11.1.5.1.

Relevant sections of the Plan are appended to the back of the report for the information of the Board.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

**1. *The proposal is attempting to circumvent the planning process and undermine the basis of the previous refusal on the subject lands.***

- The site the subject of the appeal has been the subject of a number of failed planning applications. Of particular note is that refused by An Bord Pleanala

3735/14 (PL.29S.244877) on the grounds of inadequate private open space for both the existing and the proposed development.

- A subsequent application Reg Ref 2589/16, which did not involve any works to the protected structure was also refused permission. The provision of the new dwelling required the subdivision of the site and the removal of all but a small quantum of private open space for the amenity of the main dwelling and protected structure. It was concluded that this would result in a significant negative impact on the residential amenity and character of the protected structure and would be contrary to section 17.9.14. and the Z2 zoning of the site.
- The Planning Officer's report on the current application, highlights that the site to the rear of 63 Marlborough Street is in separate ownership since 2014 and as such it would be assessed independently.
- The applicants are the same in this case and it is unclear how the relationship has changed which would warrant the application to be assessed independently of the main building. This was not mentioned when the 2589/16 application was made to the planning authority.
- The current proposal differs from the preceding applications in so far as the off-street car parking space for the proposed dwelling has been removed from the private open space and is being provided in the form of an undercroft single garage. Private open space (65m<sup>2</sup>) is proposed at ground floor level which is highlighted as being above the 40m<sup>2</sup> development plan requirement.
- ...The application does not include works to the protected structure, the rear return will be retained leaving only approximately 11m<sup>2</sup> of private open space for the existing house. Given that this area has a width of 2m, it cannot be described as a functional open space. This figure is significantly less than what was proposed under 3735/14 i.e. 63 m<sup>2</sup>, a figure which was considered by the Board to provide a substandard level of amenity for the existing dwelling and result in a built form outcome which would contravene the zoning objective.
- Although the private open space has reduced from 15m<sup>2</sup> to 10m<sup>2</sup> per bedspace, the existing dwelling with 8 bedspaces generates a requirement for

80m<sup>2</sup>. Approving the application would result in the existing dwelling having less than 15% of the standard required. Given the substantial size of the dwelling this must be resisted.

- Another change is that the depth of the site has been increased (19m to 21.3m) to provide a larger area of private open space for the proposed dwelling. This further reduces the functional private open space of the existing dwelling, which will severely compromise the amenity of existing/future residents of the dwelling.
- There are no factors in this application (fundamental design changes, policy changes), which influenced the determination made under Reg Ref 2589/16 that warrant a grant of permission.

## **2. *Adverse impacts in the character of the Protected Structure and Residential Conservation Area.***

- No 63 Marlborough Road is a Protected Structure located within a Residential Conservation area.
- The development plan highlights that the curtilage of a Protected Structure is often an essential part of the structure's special interest.
- The dwellings to the east and west of the Protected Structure fronting onto Marlborough Road all display a consistent pattern in terms of their garden size and relationship between the main building and its curtilage. The proposal will result in a pattern of development that clearly disrupts the established character of this residential conservation area. This is a point which was highlighted in the planning officer's report to 2589/16.
- There has been no fundamental change in the plans since the determination of 2589/16 regarding the siting of the dwelling and its relationship with the existing dwelling and accordingly the proposal remains unacceptable.
- The proposed bulky scale and massing of the proposed two-storey dwelling is considered to be at odds with the established character of the residential conservation. Due to its siting and form, it will completely block views of the Victorian houses on the eastern side of Carlisle Avenue, severely impacting on the quality of the streetscape.

- Whilst the Planning Officer has specific regard to Section 16.10.16 of the development plan in relation to Mews Dwelling, Carlisle Avenue is not a mews lane and this policy is not considered to be strictly relevant to the assessment of the application. The question as to whether the redevelopment of the site for a mews dwelling must however be considered given this development outcome does not align with the prevailing neighbourhood character.
- It is considered that the application should be refused given the adverse impact on the curtilage and residential amenity of the Protected Structure and surrounding Residential Conservation area.
- It is considered that the approval of the scheme in its current form (Fig 12) would undermine the value of the Z2 zoning designation and will establish an undesirable precedent for inappropriate development.

### **3. *Adverse impact on the residential amenity of surrounding properties***

- The proposal will result in unreasonable visual bulk impacts to the surrounding properties, particularly the rear private open space of the dwelling to the east of the subject site (Fig 13). The proposal lacks articulation along its eastern first floor façade. In addition to the lack of fenestration, the lack of an appropriate first floor boundary set back will present as excessively bulky and will dominant any views from this private open space.
- There are also concerns regarding overshadowing, particularly the property to the east. The proposal includes the construction of a double storey wall on the boundary for a length of 6.5m, with the remainder of the first floor wall (6.06m) providing a minimal set back (Fig 14). Overshadowing of the property in the afternoon and evening will severely impact on the amenity of this space.
- The development does not comply with the separation distances between opposing first floor windows as required by section 16.10.2 of the Plan. Whilst it is acknowledged that the standard of 22m can be relaxed, it must be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers.
- There are a number of first and second floor windows on the northern façade of the existing dwelling which will directly overlook the private open space and



south facing windows of the proposed dwelling. This will severely compromise the amenity of this dwelling and is testament to the constrained nature of the subject site and it being inappropriate to accommodate this form of development.

#### **4. Conclusion**

- The proposal is at odds with the proper planning and sustainable development of the area and the provisions of the development plan, specifically with regard to the policies in relation to residential conservation area. It will impact negatively on the established character and amenity of the residential conservation area. It will be excessively bulky when viewed from the public realm and will disrupt the rhythm of the existing streetscape.
- The development will also impact on the residential amenity of surrounding properties, by way of overshadowing, privacy encroachment within the rear garden and overbearing impacts.

### **7.2. Applicant's Response**

#### **1. Protected Structure**

- The subject site is now in separate ownership. The Planning Officer's report affirms this and states that the assessment was made on the site independently, whilst giving regard to the potential effects the proposal could have on the character and setting of the protected structure.
- The site acquired by the applicant is clearly defined by a boundary fence dividing the garden to the rear of 63 Marlborough Road from the subject site. A letter from Corrigan and Corrigan Solicitors is attached at Appendix B which confirms the transfer.

#### **2. Residential Conservation Area**

- Residential development is permitted in principle in areas zoned Z2.
- The appellant has stressed the significance of the zoning of the area to a greater degree than that which is expressed in the Development Plan.

- The policies and objectives of the Plan are less prescriptive and more flexible in relation to interventions in Residential Conservation Areas than Architectural Conservation Areas. Neither Carlisle Avenue or Marlborough Road are Architectural Conservation Areas, and should not be considered as such.
- The contemporary architectural design response employed in the application gave due regard to the relevant policies and objectives in relation to Residential Conservation Areas and Mews Developments.
- The Planning Officer's report clearly acknowledges the difference between the existing pattern of development in Carlisle Avenue and the proposed development which is considered as being '*well thought out*' in both layout and finishes.

### **3. *Mews Development***

- The appellant questions whether the proposed development should be considered as a mews development in the context of its location on Carlisle Avenue and the development plan standards.
- There is a mews lane running to the rear of the houses on Marlborough Road and the subject site has access to this lane. The fact that it is more convenient and safer to provide the vehicular access off Carlisle Avenue is irrelevant as the layout and characteristics of its relationship with the mews lane to the northwest confirms that the subject site should in fact be considered as a mews development.
- It is considered that the proposed mews dwelling is consistent with the development plan requirements for such developments as set out in section 16.10 .16 of the plan.

### **4. *Circumvention of the planning process***

- The assertion that the applicant has tried to circumvent the planning process is vehemently refuted.

- Ownership of the site has changed since the previous application. The fact that these applications with the red line surrounding the protected structure should not prejudice the subject application. It should be noted that the previous application under Reg Ref 2589/16 also showed the ownership separate from No 63.
- The photographs clearly identify the boundary between the appeal site and the rear of No. 63. The applicants have no legal interest in No 63 and for that reason no alterations are proposed as part of the planning application.

5. ***Adverse impacts on character of Protected Structure and Residential Conservation Area.***

- The subject site is in separate ownership since 2014 and No 63 is not in the ownership or control of the applicant.
- It is acknowledged that the site is within the curtilage of the protected structure and due regard has to be given to the potential for overlooking to and from the protected structure as well as other matters such as overshadowing.
- Whether permission is granted or not, the occupiers of 63 Marlborough Road will not have access to the subject site or the garages. The determination of the appeal will have a neutral impact on No.63 Marlborough Road and will not result in any increase/decrease in the area of open space available to No 63.
- The subject site is a separate planning unit and matters relating to the protected structure are considerations for the owner of that property.
- The distinction between Residential Conservation Areas and Architectural Conservation Areas should be noted as these designations are not comparable.
- An ACA has a legislative basis under section 81 of the Act, whereas a Residential Conservation Area does not.
- In spite of the sensitivity of the area the innovative and sensitive design approach takes account of the sensitivity and responds in an appropriate and considered way. The continuation of the stone wall as part of the development

is an example of an aspect of the design that makes a positive contribution to the Residential Conservation Area. It is effectively reinstating the garden boundary along Carlisle Avenue as it would have been prior to the construction of the 1980'S built brick fronted and concrete tiles roofed garage.

- The replacement of the garage with a well designed contemporary mews as proposed is in harmony with the residential Conservation area is consist with the Policy CH 4 of the Plan.
- The appellant is concerned with the residential amenity of the area but has failed to acknowledge that the proposed development would potentially result in a reduction in vehicular movements through the retention of a single vehicular access point from the site compared to 3 no. existing entrances to the garages.

**6. *Adverse impacts on the residential amenity of surrounding properties.***

- With regard to the issues raised regarding the visual impact of the development, it has been demonstrated to the satisfaction of the planning authority that the sensitive, sympathetic and considered design approach is compact in design and is appropriate.
- The Planning Officer's approach acknowledges that the contemporary design 'differs' from the existing pattern of development on Carlisle Avenue but that the layout and finishes are well considered and acceptable and do not have a negative impact on the amenity or the architectural quality of this Z2 zoned area.
- The scale and massing of the development is appropriate. The flat roof building is compact in design and is a minimal of 0.8m above the ridge level of the garages. The sand cement pre-coloured render reflects the palette of the adjacent Victorian residences and the light colour aids in reducing visual impact. The external wall of the first floor is set back into the existing extended stone wall at Carlisle Avenue and adjacent to the existing mews lane to the northwest. The vertical windows provide relief to the massing of the rendered external component at first floor level and the parapet breaks back in the central window unit which breaks the mass and provides visual interest. The terrace at first floor is further recessed behind the primary first floor façade

and the glazed balustrades reduces the visual impact. The cantilevered bedroom at first floor level is clad in timber to offer relief and contrast to the main first floor structure.

- A shadow analysis was submitted as part of the application. It was acknowledged by the Planning Officer that the increased mass of the proposed dwelling may result in some level of overshadowing but that due to the site orientation, the overshadowing would not result in undue negative impact. While a 6.5m wide by c 3.6m high section of the elevation site above the boundary/garden wall of No 61 Marlborough Road, a c.1m wide separation gap is provided from that boundary to a 6m wide return. This 1m wide gap from the inside face of the boundary wall is a reasonable set back and therefore mitigates any potential overshadowing impact.
- A degree of overshadowing with such developments within a city context is inevitable, which was acknowledged by the Inspector in consideration of PL29S.222104.
- With regard to overlooking, there are no windows in the development at either the Mews Lane or to the eastern boundary to the rear garden of No.61 . Marlborough Road. The narrow and tall vertical window units to Carlisle Avenue are purposely designed as an innovative approach to address the possibility of overlooking. The windows at first floor level looking onto the rear of No 63 are carefully considered with the innovative design approach to be either opaque (to bathroom and access to terrace) or at high level in order to mitigate against overlooking below the ideal minimum of 22m.
- Whilst the minimum separation distance has not been achieved it has been addressed in the design approach adopted for the development.

## **7. Conclusion**

- It has been demonstrated that an innovative approach has been adopted in developing a contemporary proposal which addresses all of the issues raised in terms of the planning process, the potential impacts on the protected structure, the residential area context and the residential amenities of adjacent properties. While the site can be considered as constrained the approach taken to the design has been demonstrated to address the

requirements of the planning authority and the Board is requested to uphold the decision to grant permission.

### 7.3. **Planning Authority Response**

Dublin City Council stated that it did not intend to respond in detail to the grounds of appeal as it was considered that the comprehensive planning report deals fully with all the issues raised and justifies the planning authority's decision.

## 8.0 **Assessment**

8.1. The main issues that arise for assessment by the Board in relation to this appeal relate to the following matters;

- Principle of the development in this location.
- Impacts on character of Protected Structure
- Impacts on Residential Conservation Area
- Impacts on Residential Amenity.

### 1. **Principle of the development**

The site is located in a Z2 zoned area where the principle land use is housing. Subject to good planning practice and compliance with the provisions of the development plan, I accept that the proposal is acceptable in principle in this location.

### 2. **Impacts on character of Protected Structure/**

According to the Conservation Assessment submitted in support of the application, the house at No. 63 Marlborough Street was built in 1860. The site also accommodates more recent construction including a rear single-storey extension and a garage building located to the rear of the site.

I would point out to the Board that no works of any kind are proposed to the protected structure. There is no objection to the demolition of the garage, which did

not form part of the original buildings within the curtilage of the protected structure and is of no conservation interest.

The Board will note that there have been efforts in the past to provide a house within the curtilage of the protected structure. These applications were refused due to the failure to provide adequate open space for the proposed house and the existing structure. The question that arises is whether the current proposal addresses the concerns raised by the planning authority and the Board in the determination of previous applications.

One of the main differences noted by the planning authority is that the application site no longer includes the protected structure. A recently erected wooden fence defines the boundary between the properties. The site is stated to be in separate ownership since 2014 and the applicant's response incorporates a letter from Corrigan & Corrigan Solicitors confirming the transfer of deed to the applicant (Appendix B). During my inspection of the site, I met the applicant's father who resides at No 63, who stated that his son and his wife wished to build a house on the site.

It is recognised in the development plan that the curtilage of a Protected Structure is often an essential part of the structure's special interest. In this case the curtilage associated with the house includes a clearly defined enclosed rear garden, which is replicated along the terrace. There is a presumption against the subdivision of rear gardens associated with protected structures in the development plan and a requirement that 'an appropriate gardens size to that of the structure' be retained in order to protect the character of protected structures (Section 11.1.5.3)

In contrast to the most recent application (2589/16), the current proposal incorporates sufficient private open space for the proposed development, but would result in just 11 sq,m of private amenity space being retained with the protected structure. This would result in a level of open space provision which is seriously below development plan standards. It would result in a poorly located area of open space which is overshadowed and which would seriously compromise the amenity of the protected structure. It would result in the subdivision of the original garden associated with the protected structure, which is contrary to the provisions of the

development plan and would set an undesirable precedent for similar development within the curtilage of protected structures in the area.

The proposed development would, therefore, result in a substandard form of development which would neither protect nor improve the amenities of the existing residential property or of the wider area and would contravene the Z2 zoning objective 'To protect and/or improve the amenities of residential conservation areas'.

I accept that the principles upon which the previous applications were refused remain largely unchanged and accordingly, I recommend that permission be refused for the current proposal.

### **3. Impacts on Residential Conservation Area**

The proposal lies within a Residential Conservation Area, which includes Carlisle Avenue, Marlborough Road and other residential development in the vicinity. Residential Conservation Areas are described in the development plan as having *'extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale. The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such area, both protected and unprotected. The general objective for such areas is to protect them from unsuitable new development or works which would have a negative impact on the amenity or architectural quality of the area'*.

The proposal is located on Carlisle Avenue, which has a clearly recognisable unified character and its terraced housing displays consistency in terms of height, finishes etc. In visual terms, the appeal site is not interpreted as part of the 'square' that defines Carlisle Avenue but as an element that defines the transition from the rear of the protected structures into the more ordered architectural environment. Views towards the terrace northwards from Marlborough Road are partially obscured by the existing garage building. Whilst the scale, massing and bulk of the proposed development is at variance with the established character of Carlisle Avenue and will further impact on views of the terrace, I consider that through its innovative design quality, the proposed development can be accommodated in this location without impacting on the architectural quality of the streetscape and the residential character of the area.



#### **4. Impacts on Residential Amenity**

Issues have also been raised in the appeal regarding impacts on residential amenity arising from overlooking, overshadowing and the potential for visual impacts on adjoining properties arising from the scale and bulk of the proposed development.

The house would have a blank wall presentation to the east and north ensuring that there is no potential for direct overlooking of the rear garden of No. 61 Marlborough Street or No.1 Carlisle Avenue on the opposite side of the laneway. A window is proposed in the southern gable serving a bedroom, which would face towards the rear of the properties on Marlborough Road. Whilst I accept that the 22m separation distance between opposing first floor windows is not achievable, I accept that the potential for overlooking from the proposed dwelling is reduced by the design (vertical high level window). The remaining window at first floor level serves a bathroom which would be fitted with opaque glass, thereby removing any potential for impacts on the privacy of adjacent property.

The proposal would incorporate windows at ground floor level serving the main living space. Subject to appropriate boundary treatment, these windows would not overlook the rear area of the protected structure. However, the potential does exist for the private amenity space of the proposed dwelling to be overlooked by the windows of the protected structure (which serve a kitchen at first floor level and a landing and bedroom at other levels), with the potential for impact on the amenity of future residents of the house.

Issues have been raised regarding the potential for overshadowing on the rear garden of No 61. The proposal results in the replacement of the existing garage building with a new structure. The existing garage is set back from the common boundary between the two properties by c 1m. It has a pitched roof and ridge level of c 4.5m above ground level. In contrast, a portion of the new building would be constructed tight up to the boundary wall, with the remainder set back by c 1m. It will be c 0.8m higher and will have increased mass and bulk. I accept that the neighbouring garden located to the east/northeast of the proposed house, will experience increased overshadowing in the afternoons/evenings as a result of the proposed development, which will loss in some level of amenity,

## **Conclusion**

I accept that the subject site is too small to accommodate the proposed development without impacting on the amenity of the protected structure. I accept that there is a presumption against the subdivision of gardens associated with protected structures and that such action should be resisted in order to protect the character and setting of individual buildings and the overall character of the residential conservation area. I consider that permitting the proposed development would result in a precedent for similar development which would be contrary to the provisions of the development plan.

The proposed development would result in a substandard form of development which would neither protect nor improve the amenities of the existing residential property or of the wider area and would contravene the Z2 zoning objective 'To protect and/or improve the amenities of residential conservation areas'.

## **9.0 Appropriate Assessment**

Having regard to the location of the development within a built up area, the nature and scale of the development and the separation distance from the Natura 2000 sites, I consider that the proposed development, either alone or in combination with other plans or projects, does not have the potential to impact adversely on the qualifying interests of any Natura 2000 site. Stage 2 Appropriate Assessment is not therefore required.

## **10.0 Recommendation**

- 10.1. Having considered the contents of the planning application, the decision of the planning authority, the provisions of the development plan, the grounds of appeal and the responses thereto, my inspection of the site and my assessment of the planning issues, I recommend that permission be refused for the development for the reasons and considerations set out below.

## **11.0 Reasons and Considerations**

The proposed development in the subdivided rear garden associated with No 63 Marlborough Road, a Protected Structure, would result in an inadequate level of private open space to the existing dwelling to the standard required under Section 16.10.2 of the Dublin City Development Plan 2016-2022. The proposed development would, therefore, result in a substandard form of development which would neither protect nor improve the amenities of the existing residential property or of the wider area and would contravene the Z2 zoning objective' To protect and/or improve the amenities of residential conservation areas'.

**Breda Gannon**  
**Inspector**  
**April 18<sup>th</sup>, 2017.**