



An
Bord
Pleanála

Inspector's Report PL29S.248030

Development	4 bedroom mews house
Location	7 Heytesbury Lane, Ballsbridge, Dublin 4
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	Reg.Ref.3663/16
Applicant(s)	Robert Redmond
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Peter Rooney
Observer(s)	None
Date of Site Inspection	16 th of May 2017
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1.1. The application site is situated to the rear of no.7 Wellington Road, Ballsbridge and has access to Heytesbury Lane. It is close to the northern end of the Lane and the junction with Pembroke Lane. It comprises the former rear garden area of no.7 and there are two storey mews properties on either side. It is noted that the period properties in Wellington Road had long narrow rear gardens and a large number of sites now have divided sites with mews houses facing onto the laneway.
- 1.1.2. The site now appears as infill in form with the blank side elevations of the two storey mews properties on either side. It is more elevated than the rear of no. 7 Wellington Road which has steps up to the rear garden area. There are some trees on site but these do not appear to be particularly of note. There is a high stone wall around the side and rear of the site and trees and shrubs along the boundaries of the adjoining properties in Wellington Road.
- 1.1.3. Access is via the existing entrance to the rear of the site from Heytesbury Lane. The lane is narrow with restricted parking (pay/display/permit) on the west side. There is little on-street parking available in the lane due to the number of gated accesses.
- 1.1.4. The area appears mainly residential, although it was noted on site that there is a commercial premises further to the north west along the Lane.

2.0 Proposed Development

- 2.1.1. It is proposed to construct a mews dwelling on a site of (0.06acres/258sq.m) at no. 7 Heytesbury Lane to the rear of no.7 Wellington Road which is a Protected Structure. The application consists of a two storey over basement 4 bedroom detached dwelling, total area 198sq.m, with off-street parking new vehicular & pedestrian access and associated site works.
- 2.1.2. The proposed plot ratio is 0.77 and the proposed site coverage is 24%.
- 2.1.3. A Site Layout Plan, Floor Plans, Sections and Elevations have been submitted with the application. Contextual Front/Rear Elevations have also been submitted.
- 2.1.4. 'Heytesbury Lane Dwelling – Drainage & Service Report' by ONCE Civil & Structural Ltd, has been submitted with the application.

3.0 Planning Authority Decision

3.1. Decision

On the 23rd of January 2017 Dublin City Council granted permission for the proposed development subject to 10no. conditions. These generally relate to infrastructural and construction related issues.

Condition no.7 provides a restriction on exempted development.

Condition no.9 has regards to drainage requirements including minimising the risk of basement flooding.

3.2. Planning Authority Reports

3.2.1. Planner's Report

The Planner had regard to the locational context of the site, planning history and policy and to the submissions made. They noted that the red line defines the site area and the applicants have not identified the P.S. on Wellington Road as within what would be the blue line. They considered that the main issue with the application is to ensure that the two bedrooms at basement level received adequate sunlight/daylight. They were concerned that the balcony area at first floor level is problematic and could have a negative impact on neighbouring dwellings. They noted that a sedum roof along with a series of solar panels are proposed and considered these to be acceptable. They recommended that further information be sought including the following:

- Justification for the basement considering the site is situated within a Conservation Area and adjoins a P.S. Regard to planning policy in Section 16.10.15 of the DCDP.
- Structural stability Report relative to the construction of the basement and impact on adjoining properties.
- A daylight analysis for the two habitable bedrooms proposed at basement level.

- To show that the basement level provides for adequate ventilation to all rooms.
- Clarification of the Drainage Division requirements relative to minimising the risk of basement flooding.
- To review the proposed first floor bedroom balcony considering the potential for overlooking.

3.2.2. Response to Further Information

P.A. Architects have submitted a response on behalf of the applicants which includes the following:

- They note there is a precedent for basement construction along Heytesbury Lane, including the adjoining property and that the proposed development is a considerable distance from the rear of the P.S at no.7 Wellington Road.
- Once Civil & Structural Engineers structural stability report shows that during basement construction other properties will not be impacted upon and that critical infrastructure will be maintained.
- They have undertaken a 3D computer study of the daylight within the two habitable bedrooms in the basement level and they provide that this complies with current standards.
- They provide that all of the basement habitable rooms tested contain at least one window that meets the BRD guideline values for annual winter sunlight.
- They conclude that the results confirm that the proposal meets the BRE guidelines for daylight and sunlight amenity, especially when considering the central Dublin location.
- They provide that the ventilation to the habitable rooms in the basement will comply with the current standards.
- Once Civil & Structural Engineers cover letter details measures that have been taken to minimise the risk of basement flooding and all internal drainage.
- They provide details (including a drawing) of screening panels to the proposed balcony, and note other adjacent properties will similar layouts.

3.2.3. Planner's Response

The Planner has regard to the Further Information submitted. They considered the additional information submitted to be acceptable. They noted that there are basements included in other developments in the area and that no objections had been made to the balcony area. They considered the external finishes to be acceptable whereby the detail can be agreed as part of compliance. They considered the proposed development to be acceptable and in line with the Z2 zoning objective and the proper planning and sustainable development of the area and recommended that permission be granted subject to conditions.

3.3. **Other Technical Reports**

3.3.1. Engineering Department Drainage Division

They have no objection to the proposal subject to conditions, including incorporation of SUDs in the management of storm water, regard to flood risk including minimising the risk of basement flooding.

3.4. **Prescribed Bodies**

There has been no Observation received from the Prescribed Bodies.

3.5. **Third Party Observations**

3.5.1. A Submission has been received from the subsequent Third Party, and this includes the following concerns:

- The need for modifications to the current design are requested to ensure that it does not injure his property and respects the character of the area.
- The Z2 Residential Conservation area must be taken into consideration, along with the impact on adjoining properties including the P.S in Wellington Road.
- Concerns about excavation for the footprint of the basement and trespass on neighbouring properties.
- The size of the mews plot should be reduced in depth so that a rear garden can be of quality and size to support the existing P.S.

- The proposed mews should align with the building lines of its adjoining properties. This also should apply to the two storey volume.
- Overlooking and concerns that the balcony at first floor level will directly overlook the rear garden of no.5 Wellington Road.
- Appropriate screening should be provided to prevent such overlooking.
- They note some discrepancies in the drawings submitted which are misleading.
- Having regard to the proposed location in a conservation area they recommend careful attention to materials and external finishes.

4.0 Planning History

4.1.1. The following is the recent planning history relevant to the subject site:

Reg.Ref.2272/11 – Permission granted by the Council and subsequently refused by the Board (PL29S.239499 relates) for Construction of a new two-storey over basement detached mews dwelling with glazed light-well, at a site to rear of number 7 Wellington Road, Ballsbridge, Dublin which is a protected structure. Proposed Mews to be accessed through an existing vehicular entrance from Heytesbury Lane, Ballsbridge, Dublin. Provision for two number off street parking spaces and new pedestrian gate with alterations to existing vehicular entrance and provision of new automatic gates. Proposed Mews to consist of four number bedrooms (two double with ensuite, two single), bathroom, w.c., kitchen, living areas, storage and ancillary spaces and associated site works. This was refused for the following reason:

Having regard to location of the proposed development within the curtilage of a Protected Structure in a residential conservation area, zoning objective for the area and the existing pattern of development in the area, and notwithstanding that a mews house on this mews lane would be acceptable in principle, it is considered that the proposed development by reason of its scale, including in particular the extent of the basement area, its excessive height, elevational treatment and restricted garden would constitute development which is not subservient to the Protected Structure, and would seriously injure the visual amenities of the overall area. The proposed development would, therefore, constitute overdevelopment of the site and seriously

injure the residential amenities of future occupants. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- Reg.Ref.1418/08 – Permission Refused by the Council and subsequently granted subject to conditions by the Board (Ref.PL29S.228977 refers) for the removal of part of existing railing and wall to form a new vehicular access with dished footpath and new entrance gates from Wellington Road and a hard standing for two cars.

This application referred to the Protected Structure no.7 Wellington Road and at that time the site shown in red and on the Site Layout Plan included the rear garden area which encompasses the subject site, with rear access to Heytesbury Lane.

- Reg.Ref.3483/07 - Permission refused by the Council for the construction of a new 2 storey over basement 4 bedroom detached mews dwelling to the rear of existing property. The mews is to be accessed from existing vehicular access on Heytesbury Lane with off street parking for 2 no. cars, with terrace & balcony to rear of dwelling at ground and first floor levels respectively. This was refused on the grounds that it would provide for a substandard dwelling that would seriously detract from the residential amenities of the adjoining dwellings and the character of the area.

Adjoining mews development

- Reg.Ref. 2517/14 – Permission granted subject to conditions by the Council for the construction of a two storey, triple pitched roofed two-bedroomed mews dwelling house with 1no. off-street car parking space and relocation of existing vehicular entrance in boundary wall. The proposed roof to be finished in natural slate and have 7no. rooflights & 4sq.m of solar panels. Single storey roof to front to have flat roof finished in zinc and rooflight. All at no.5 Heytesbury Lane.
- Reg.Ref. 1392/05 – Permission granted subject to conditions by the Council for the demolition of the existing two storey dwelling and the construction of a new 4 bedroom two storey over semi-basement dwelling house, with

balconies at first floor to the front and rear, total three storey including alterations to front balcony wall and site entrance at no. 9 Heytesbury Lane.

This is a similar house type to that proposed and Condition no.4 is of note relevant to overlooking:

An opaque screen of an appropriate design with a minimum height of 1.6m above finished floor level shall be provided for the full length of the southern side of the proposed first floor rear balcony.

5.0 Policy Context

5.1. Dublin City Development Plan 2016 – 2022

There are a number of policies and objectives that are relevant to the proposed development and these include the following:

Chapter 5 seeks to promote Quality Housing and sustainable residential densities. Policy QH1 seeks: *To have regard to the DECLG Guidelines on ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007); ‘Delivering Homes Sustaining Communities – Statement on Housing Policy’ (2007), ‘Sustainable Urban Housing: Design Standards for New Apartments’ (2015) and ‘Sustainable Residential Development in Urban Areas’ and the accompanying ‘Urban Design Manual: A Best Practice Guide’ (2009).*

Chapter 11 refers to Culture and Heritage. Section 11.1.3 sets out the challenges to protect the character of designated ACAs and CAs and to protect the structures of special interest and review the RPS.

Policy CHC1: *To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.* CHC2 seeks: *To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and a list of criteria is provided.*

Section 11.1.5.1 refers to the RPS. The Planning and Development Act, 2000 (as amended) defines 'Protected Structures' as structures, or parts of structures, which form part of the architectural heritage and which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

Chapter 12 refers to 'Sustainable Communities and Neighbourhoods.

Chapter 14 sets out the Land-use Zoning Principles and Objectives. The subject site is located within the Z2 refers to Residential Neighbourhoods (Conservation Areas).

Section 14.8.2 sets out the Objective which is: *To protect and/or improve the amenities of residential conservation areas.*

It is provided that the guiding principle is to enhance the architectural quality of the streetscape and the area, and to protect the residential character of the area.

Chapter 16 provides the Development Standards and refers to Design, Layout, Mix of Uses and Sustainable Design. This includes Section 16.10.2 which refers to Residential Quality Standards – Houses.

Section 16.10.16 refers specifically to the criteria for Mews Development. Section 16.10.15 refers to Basements. Section 16.10.10 refers to Infill Housing.

Appendix 24 refers to Protected Structures and Buildings in Conservation Areas.

5.2. **Architectural Heritage Protection Guidelines for Planning Authorities**

These are of relevance and were issued by the DoEHLG in 2004/2011 –

Section 1.3.1 (f) provides: *Where a structure is protected, the protection includes the structure, its interior and the land within its curtilage and other structures within that curtilage (including their interiors) and all fixtures and features which form part of the interior or exterior of all these structures. All works which would materially affect the character of a protected structure, or a proposed protected structure, will require planning permission.*

Section 2.2.2 refers to a P.S and land within its curtilage. S.2.9.1(c) relates to whether the curtilage of a P.S has been determined.

Chapter 6 provides policies and objectives for Development Control, which seek to ensure the protection of the architectural heritage so that these structures retain their

character and special interest and continue to contribute to the social and economic mix of the area. This also relates to the sensitivity of works within the curtilage of protected structures and attendant grounds and/or ACAs.

Chapter 13 deals specifically with the Curtilage and Its Attendant Grounds.

Section 13.5.1 provides: *Proposals for new development within the curtilage of a protected structure should be carefully scrutinised by the planning authority, as inappropriate development will be detrimental to the character of the structure.*

Section 13.7.1 provides: It is essential to understand the character of a site before development proposals can be considered. Section 13.7.2 has regard to the issues to be considered including: (a) Would the development affect the character of the protected structure? (b) Would the proposed works affect the relationship of the protected structure to its surroundings and attendant grounds?

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. Lawrence and Long Conservation Grade Architects have submitted a Third Party Appeal on behalf of Peter Rooney of no.5 Wellington Road. The subject site bounds part of the rear garden area of his property. He does not object to a suitable residential infill development on the land at this location. However, he objects to the current poor quality and form of the proposed development in this residential conservation area, and contends it has a detrimental effect on his property and that it is not in line with the proper planning and sustainable development of the area. The grounds of appeal are considered under the following headings:

The proportion of the mews site to the rear garden of the main house is incorrect.

- The line of the sub-division of the total property (i.e no.7 Wellington Road and its rear garden to Heytesbury Lane, to form a mews site for the proposed development is incongruous.
- Since the site has not yet been subdivided they suggest that the size of the mews plot is significantly reduced, so as to provide a rear garden of quality

and dimension to the P.S. and to protect the amenities of rear adjoining rear gardens in Wellington Road.

The volumetric massing of the proposal does not sit sympathetically with it's immediate context.

- The two storey volume of the proposed house does not align with that of its neighbours, in particular no.5 Heytesbury Lane.
- Details of suggested realignments are included and they and attach a drawing.

The provision of a balcony at first floor level will lead to a significant loss of amenity.

- Irrespective of the proposed screen they are still concerned about direct overlooking from the balcony and question the need for this.

The Local Authority did not seek clarification on documentation discrepancies.

- Discrepancies on drawings provide conflicting information, where it is unclear as to what the real intent of the proposal is proposing.
- Clarity as regards proposed external finishes and fenestration has not been given. The exact nature of construction details has not been included.

6.2. Applicant Response

6.2.1. P/D/C Architectural has submitted a response to the grounds of appeal on behalf of the First Party. This includes a Report by Michael J Reynolds, Planning and Planning Conservation Consultant. This includes the following:

- They note the housing shortage in the Dublin City area and that this application is for an infill development.
- There has been a trend for infill of these long rear gardens in these mews lanes including Heytesbury Lane. Mews areas like Heytesbury Lane are intended for new development. These include a variety of design and two storey houses for family homes.
- They have regard to the current DCDP 2016-2022 and consider that the proposed development for an infill mews development complies with planning policy and objectives.

- The Z2 residential/conservation zoning does not create an ACA as defined in the Planning Acts.
- The Protected Status of the site of the proposed development should not be misunderstood. Curtilage in relation to P.S is not defined in the Planning Acts. It can change over time through subdivision.
- The appellant's address at no.5 Wellington Road is well removed from the proposed dwelling house.
- The legal subdivision has taken place and the applicant is the owner of the subject site and there is no legal obligation to require part of this site to no.7 Wellington Road.
- There are similar cases relative to the plot size and rear boundary with other houses in Wellington Road.
- The site of the proposed development is fully subservient to the dominance of the original house of No.7 Wellington Road.
- The amount of open space to the rear of no.7 Wellington Road is adequate and details are provided of this.
- They note no.9 Heytesbury Lane has a basement and that the adjoining mews houses are similar in height and volume above ground level to the proposed house.
- The contextual drawing and photographs in Appendix 1 of this Report show that the size and scale of the proposed development is entirely compatible with the pattern of adjacent development which included a multitude of different styles behind a high mews type stone wall.
- The proposal building lines are compatible with adjoining development and they refer to the contextual drawing and photographs in Appendix 1 in this respect.
- The design of the balcony incorporates screening which is an acceptable method of protecting the amenity of adjoining property. They refer to precedent cases.

- The inclusion of the balcony will increase the privacy of the rear of no. 5 Wellington Road.
- There are no objections from any other adjoining owners.
- A relatively recent mews development has been built at no.5 Heytesbury Lane (Reg.Ref.2517/14 refers), which they note was also of concern to the appellant.
- The proposal is compatible with the established pattern of development in the area and will result in a sustainable form of development that will not impact adversely on the ambience of no.7 Wellington Road (P.S).

6.3. Planning Authority Response

6.3.1. There has been no response from Dublin City Council.

7.0 Assessment

7.1. Principle of Development and Planning Policy

- 7.1.1. The proposed development consists of a two storey residential mews house with basement along with infrastructural services and access to Heytesbury Lane. The site formed part of the rear garden of a Protected Structure i.e no. 7 Wellington Road. Section 11.1.5.3. of the Dublin City Development Plan 2016-2022 refers to development within the curtilage of a Protected Structure i.e: *The design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure...Any development which has an adverse impact on the setting of a protected structure will be refused planning permission. The removal of rear gardens to permit underground accommodation is permitted only in limited circumstances. An appropriate garden size to that of the structure should be retained. The total removal of historic boundary features or subdivision of rear gardens or original communal front gardens will generally not be permitted.*
- 7.1.2. The impact on adjoining properties and the character of the Z2 residential conservation area also needs to be considered. It is of note that as shown on Land

Use Zoning Map E of the DCDP 2016-2022, the site while in the Z2 zoning is not within a Conservation Area or an Architectural Conservation Area. The Z2 zoning objective includes: *Residential conservation areas have 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 areas, both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.*

- 7.1.3. The Third Party is concerned that the proposed development in its current form including the basement will lead to a poor quality of development and be overly large in the context of the site and will impact adversely on adjoining properties, including relative to overlooking. They are also concerned about the impact on the curtilage of the P.S and reduction in the rear garden area of no. 7 Wellington Road.
- 7.1.4. The First Party consider that the proposed development is in context with adjoining mews developments and the pattern of development in Heytesbury Lane. They note that the site has been subdivided and consider that the ambience and setting of the P.S including the rear garden of no.7 Wellington Road will not be adversely affected. They do not consider overlooking an issue and consider the proposal in accordance with the pattern of development of the area.
- 7.1.5. Therefore, while the principle of a well-designed infill mews development is supported (Section 16.10.16 of the DCDP 2016-2022 refers) and within the residential conservation land use zoning, it needs to be ascertained whether the proposed development would be sustainable on this restricted site area in this location to the rear of a Protected Structure and would comply with standards relative to residential development. It is of issue that such infill residential mews development not be detrimental to the amenities of future and adjoining residential occupants or the character of the P.S or residential conservation area. Regard is had to these issues, including the issues raised by the Third Party in the Assessment below.

7.2. Design and Layout and differences to that previously refused

- 7.2.1. The Board's reason for refusal relative to the previous proposal on this site (Ref.PL29S.239499 relates) has been noted in the History Section above. Since that time it is noted that there is a new Development Plan 2016-2022. However, the land use zoning relative to the Z2 residential/conservation area and the issue relative to the proximity to the Protected Structure (no.7 Wellington Road) remains unchanged. The issue in the current application is whether this proposal would overcome the Board's previous reason for refusal.
- 7.2.2. As noted above that proposal consisted of a two storey over basement 4 bedroom detached dwelling with a total floor area of 228sq.m. on a site area of 252sq.m. It also included a glazed light-well. The Floor Plans showed the floor areas as Level -1 at 114sq.m, Level 0-67sq.m, Level 1 - 47sq.m. The basement area included 3no. bedrooms, with one of the bedrooms accessed via the courtyard at the rear, the living accommodation on the ground floor and bedroom 4 and lounge area on the first floor. A rear garden encompassing 80.4sqm of private open space was included. Contextual elevations have been submitted showing the front and rear elevations in relation to the adjoining mews properties either side. The proposed height above ground level varies relative to the roof type from c.6.8 to 8.0m. This was shown marginally higher than no.9 Heytesbury Lane. Regard is also had to the fenestration and the number of windows front and rear then proposed. A cross section has also been submitted showing the proposed dwelling, courtyard area and relationship to no.7 Wellington Road.
- 7.2.3. In the current application the Site Layout Plan shows that the curtilage of the site is similar to that shown in the application previously refused. The site area is now given as 258sq.m. The floor area of the proposed dwelling has been reduced to 198sq.m. The plans now submitted show the basement area reduced to c.62sq.m, in that bedroom 4 and the courtyard area formerly shown at rear has now been omitted i.e 2no. bedrooms are now proposed at basement level. This allows for a larger rear garden area. A terrace garden is to be provided at the front at basement level. The footprint of the basement now corresponds to that of the ground floor, which contains kitchen/dining room, bedroom and reception area and is also c.62sq.m. The First Floor also corresponds to the footprint of the dwelling as c.62sq.m. The total floor

area given appears to include regard to the rear balcony at c.5m and the terrace garden at basement level of c.7sq.m i.e 198sq.m.

7.2.4. It is noted that the reduction in floor area means that the footprint at the rear, particularly at basement level and also at ground floor level would not extend as far as that shown on the previous plans. The height of the proposed dwelling has also been reduced so that it is now shown reduced to c.7m – 7.6m (as shown on the elevations) so that it corresponds more to the heights of the two storey dwellings on either side in particular no.9 Heytesbury Lane. Regard is had to the Contextual Elevations and it is considered that this reduction in height is preferable in that the new dwelling will appear more as an infill and less dominant in the streetscape.

7.2.5. Therefore, the current proposal differs from that previously refused, in that the floor area has been reduced from 228sq.m to 198sq.m, primarily through a reduction in the floor area of the basement. The overall height of the dwelling has also been reduced. It is noted that there are changes proposed to the fenestration and external finishes and these are discussed further in the context of the impact on the character and amenities of the area.

7.3. **Regard to Curtilage/Boundary issues**

7.3.1. The proposed dwelling is to be built in part of the former rear garden of no.7 Wellington Road. Section 11.1.5.3 of the DCDP 2016-2022 includes in regard to the curtilage of P.S: *The traditional proportionate relationship in scale between buildings, returns, gardens and mews structures should be retained, the retention of landscaping and trees (in good condition) which contribute to the special interest of the structure shall also be required.* Regard is also had to Policy CHC2(d) which seeks: *Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure.*

7.3.2. Compliance with this issue is of concern to the Third Party who are concerned that the proportion of the mews site to the reduced rear garden area of the main house is incorrect. It is noted that the site area has not been reduced from that shown in the previous application. Regard is had to the concerns of the Inspector relative to rear garden size of both the P.S and the proposed mews development in Ref.

PL29S.239499. While referred to in the Board's reason for refusal (as noted in the History Section above), the Direction included: *The Board also noted the concerns of the planning authority's Conservation Officer regarding the subdivision of the rear garden, which provides a disproportionate area to the mews dwelling over the principle house.* In this respect it is noted that there is no Report from the Council's Conservation Officer on the current file.

- 7.3.3. The First Party response provides that there is no uniformity on Heytesbury Lane, with regard to the depth of the mews sites therein. Having regard to the site location map it is noted that the rear boundary corresponds to nos.1 and 15 Heytesbury lane. As shown on the Site Plan it is also similar to no.9 Heytesbury Lane to the south. However, these were considered under a previous development plan. The rear garden of no.5 Heytesbury Lane adjoining to the south is smaller, with the P.S at no.5 Wellington Road having the longer and more dominant rear garden area.
- 7.3.4. They also note that the overall site of no.7 had an overall depth of approx. 93sq.m (based on the original OS map at 1:1000 scale). It is of note on site that the rear garden area has not as yet been subdivided and appears as part of the curtilage of the P.S. It also includes some trees, which while not of particular note will have to be removed to facilitate the subdivision. The depth of the subject site is approximately 34sq.m or approx. 1/3 of the overall site area. However, this does not allow for the fact that the rear garden area of the main house has as shown on the plans been considerably reduced and it is of note that the Third Party has included a drawing showing (in yellow) a possible reduction in the area of the mews site.
- 7.3.5. The issue however as pointed out by the First Party is that the legal subdivision of no.7 Wellington Road has already taken place and will not be altered. They submit that the position of the rear boundary of the appeal site has no impact on nos. 5 and 9 Wellington Road. It is of note that the issue of ownership is a civil matter and I do not propose to adjudicate on this issue. I note here the provisions of s.34(13) of the Planning and Development Act: "A person shall not be entitled solely by reason of a permission under this section to carry out any development".
- 7.3.6. Having regard to the plans submitted, the Site Layout shows that the rear garden of the mews development is c.88sq.m. and that of no.7 Wellington Road has been reduced to c.80sq.m. The no. of bedspaces at no.7 Wellington Road has not been

provided nor is it known if the house is in multiple occupation (Section 16.10.16(k) refers). It is noted that as per Section 16.10.16(j) the requirement for private open space for a mews development is 15sq.m per bedspace. In view of these issues and the impact of the garden subdivision on the siting and curtilage of the P.S, I am concerned that the Board's reason for refusal in PL29S.239499 has not been overcome, regarding this issue.

7.4. Access and Parking

- 7.4.1. The Site Layout Plan in the previous application included access from Heytesbury Lane and off street parking for 2 cars. In the current plan the access is shown similarly with on-site parking area for 1 car. This is not now an over provision and corresponds with on-site parking requirements in Section 16.10.16(g) (Mews Dwellings) in the DCDP 2016-2022.
- 7.4.2. The First Party provide the main unifying feature on the east side of the laneway in the vicinity of No.7 is the high random stone boundary wall with arches of different design incorporating brick detailing. They consider that a standard design for entrances and arched openings would have been desirable. Currently there is a larger arched gateway into this site. It is proposed to reduce the size of the arched gateway and also to provide a separate pedestrian arched gateway. This differs from the previous application and it is considered will be a visual improvement relative to the character of other openings in this area of the lane.
- 7.4.3. It is noted that the Heytesbury Lane area has restricted pay/display and permit parking along the western side. However, the wider area is generally well served by public transport.

7.5. Impact on the Character and Amenities of the area

- 7.5.1. The site of the proposed development is located towards the northern end of Heytesbury Lane and towards the centre of the Georgian area bounded by Wellington Road and Waterloo Road. In the past this area comprised long narrow rear gardens as is the case with the subject site. In general, these gardens have been subdivided with the greater rear garden area given to the P.S facing Wellington

Road. The concerns about the proposed sub-division of this site, relevant to the impact on the P.S have been noted above.

- 7.5.2. It is noted that developments on these mews laneways incorporate a variety of styles. The mews on the opposite side of Heytesbury Lane have a lesser set back which results in longer rear garden areas. The design of the current proposal is similar to that of the adjoining site no. 9 Heytesbury Lane, although the fenestration differs with larger first floor front and rear windows proposed. It is noted that these properties are somewhat set back and screened by the 3m high stone wall that provides a unifying feature along the lane.
- 7.5.3. An issue has been raised by the Third Party relative to overlooking from the proposed balcony. While as shown on the Site Plan the proposed mews dwelling is c.20m from the rear of no.7 Wellington Road the balcony would be less than this (c.19m). Section 16.10.16(l) provides: *The distance between the opposing windows of mews dwellings and the main houses shall be generally a minimum of 22m.* Revised plans were submitted as part of the F.I which included screening around the rear balcony area. This proposes an opaque screen of 1.8m on either side and 1.1m along the frontage. On site in May, it was noted, that there is considerable seasonal screening provided by deciduous trees along the adjoining boundary with no.5. Wellington Road. However, some glimpses of first floor rear windows of that property can be seen from the rear garden area. It is noted that the First Floor Plans include large windows at the rear. The First Party considers that the design of the balcony incorporates screening which is an acceptable method of protecting the amenity of adjoining property, and also note that the balcony will assist in providing privacy from the proposed rear first floor windows (bedroom and study). If the Board decides to permit, it is recommended that it be conditioned that the dwelling be sited so that it is setback 22m from the rear of no. 7 Wellington Road and the balcony include a 1.8m opaque screen on all three sides.

7.6. Regard to Basement issues

- 7.6.1. Section 16.10.15 of the current DCDP refers to basements, this includes that they seek to: *discourage any significant underground or basement development or excavations below ground level of, or adjacent to, residential properties in Conservation Areas or properties which are listed on the RPS.* In this case it is noted

that the current basement area has been shown reduced from that proposed in the previous application. It is not now proposed to extend greater than the footprint of the mews dwelling into the amenity/garden space. Therefore, the basement will be in excess of 20m from the rear of the P.S. This Section also notes that basement can provide valuable additional accommodation for leisure or storage purposes, but can be liable to flooding.

- 7.6.2. It is noted that the Council's Engineering Department Drainage Division includes that: *to minimise the risk of basement flooding, all internal basement drainage must be lifted , via pumping, to a maximum of 1.5m below ground level before being discharged by gravity from the site to the public sewer.* In response to the Council's F.I request relative to this issue, ONCE Engineering have submitted further details relative to the construction of the proposed basement area and having regard to the foundations of the properties on either side. This provides that a survey of the condition of the boundary wall and structures would be undertaken. Also that during construction work, noise and vibration monitoring would be maintained on the adjoining properties and addressed daily. They provide details regarding basement drainage. It is recommended that if the Board decides to permit that a condition relative to the construction and drainage of the basement be included.
- 7.6.3. Issues have also been raised relative to daylight/sunlight and quality of the living accommodation, particularly for the proposed bedrooms in the basement. In response, the F.I submitted provided details of daylight/sunlight studies carried out. It provides that all basement habitable rooms tested, exceed the recommended ADF values for their room use and that therefore it should be considered that the BRE guidelines are satisfied with regard to daylight. Also that all habitable rooms tested contain at least one window that meet the BRE guideline values for annual and winter sunlight. It is noted that bedroom 1 is just in compliance with these minimum standards and it this window looks towards the 3m high side boundary wall via the proposed terraced area. It is not considered that it will offer much amenity for the occupants of this bedroom, however the orientation is due to the basement level.

7.7. Regard to Drainage issues

- 7.7.1. A Drainage & Service Report has been submitted by ONCE Civil & Structural Ltd. This notes that there is an existing combined sewer drainage from Heytesbury Lane.

It has regard to Flood Mapping including OPW Flood Maps and notes that these do not indicate any record of flooding within the database for the site. It provides that the existing property is served by an existing surface water sewer which runs along Heytesbury Lane. The design of the proposal is to comply with SUDS and details are given relative to compliance with current standards and flood protection measures. This includes that to facilitate the overall reduction in surface water run-off, it is proposed to control the permeable runoff from the property within the boundary of the site. The standard drainage details are to be in accordance with the Greater Dublin Regional Code of Practice for Drainage Works.

7.8. Appropriate Assessment

- 7.8.1. The site is not located within or near to a Natura 2000 site. It is a fully serviced urban site. The current proposal is for the development of a mews house and it poses no appropriate assessment issues. Having regard to the nature and scale of the proposal, no appropriate assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1.1. Having regard to the submissions made, the documentation submitted and having viewed the application onsite, I would recommend that permission be refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. Having regard to the locational context and planning history of the subject site within the curtilage of a Protected Structure in a residential conservation area, the zoning objective for the area and the existing pattern of development in the area, and notwithstanding that a mews house on this mews lane, would be acceptable in principle, it is considered that the proposed development by reason of its scale, its elevational treatment including fenestration and in particular the sub-division of the site and size of garden area, would constitute development which is not subservient to the Protected Structure, would detract from its setting, and would therefore be

contrary to Policy CHC2 (d) and Section 11.1.5.3 of the Dublin City Development Plan 2016-2022. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

22nd of May 2017