



An
Bord
Pleanála

Inspector's Report PL29S.248306

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| Development | Permission for construction of alternative design of dwelling to that previously granted under Reg.Ref.2128/12 |
| Location | 32i Macken Street, Dublin 2. |
| Planning Authority | Dublin City Council |
| Planning Authority Reg. Ref. | WEB1485/16 |
| Applicant(s) | Thomas Joseph Malone |
| Type of Application | Permission |
| Planning Authority Decision | Grant Permission |
| Type of Appeal | Third Party |
| Appellant(s) | 1) Alan Mathews 2) Barbara Dawson |
| Observer(s) | 1) Orla McCabe 2) An Taisce |
| Date of Site Inspection | 21 st June 2017 |
| Inspector | Angela Brereton |

1.0 Site Location and Description

- 1.1.1. The application site is located on the western side of Macken Street. The site is bounded to the west by the Protected Structures facing Pease Square. It comprises part of the now sub-divided former rear garden of the Protected Structure no.43 Pease Square. To the north of the site is a large warehouse now in use as 'Flyfit gym'. To the south is a single storey shed. There are more modern commercial/office blocks and some apartment residential developments on the opposite side of Macken Street. This includes the rear of the Bord Gáis Energy Theatre and Grand Canal Dock is further to the east.

2.0 Proposed Development

- 2.1.1. Permission is sought to construct an alternative design to that previously granted under planning Ref: 2128/12 at No. 32i Macken Street, Dublin 2. The proposed development consists of demolition of an existing garage and the construction of a new three storey dwelling, setback on the second floor with screened terraces.
- 2.1.2. The application form provides that the total site area is 70sq.m, the floor area of the proposed development is 121.70sq.m. The floor area of buildings to be demolished is 70sq.m. The proposed plot ratio is 1.74 and site coverage is 71.40%.
- 2.1.3. A Site Layout Plan, Floor Plans Sections and Elevations including 3D plans have been submitted. The drawings show the existing and proposed development. Drainage Plans are also included.
- 2.1.4. Fergus Flanagan Architects Ltd have submitted a Design Statement with the application.
- 2.1.5. It is provided that the proposal is exempt from the requirements of Part V of the Planning and Development Act 2000 (Social & Affordable Housing) as amended – SHEC Ref.0419/16 refers.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 9th of March 2017, Dublin City Council granted permission for the proposed development subject to 11no. conditions. These relate in general to infrastructural, construction and contribution issues.

Condition no.4 provides that in the interests of residential amenity, the windows at first floor level on the rear elevation shall be permanently maintained as obscure glazing and bottom hung.

Condition no.11 provides that the terms and conditions of the permission for the original development, issued under Reg.Ref.2128/16 shall be fully complied with, except where modified by this permission.

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 the site is located in the Z2 Residential/Conservation zoning and in the Conservation Area and the proximity to the P.S facing Pease Square. They noted that this application is for alterations to the design of the previously approved residential proposal on this site (Reg.Ref. 2128/12 refers). However, they had a number of concerns and recommended additional information be requested to include the following:

- The Applicant was requested to consider the omission of the ensuite and a reduction in the height of the rear boundary wall in order to reduce the overbearing nature on adjoining properties. This would result in an increase in private open space which is currently below development plan standards.
- The Applicant was requested to submit a cross section showing no.43 Pease Square and the proposed dwelling. Given that no. 43 Pease Square is a P.S the proposed dwelling should be subservient in height to this dwelling.

- They have regard to issues with the proposed fenestration, the Applicant is requested to consider bottom hung windows to prevent overlooking and to clarify the window openings at first floor level on the rear elevation.
- They note concerns about lighting of the open plan room at first floor level, and request the Applicant to consider a roof light.

3.2.2. Further Information Response

Fergus Flanagan Architects has submitted an F.I response and drawings to show the amendments to include the following:

- They revised the design to remove the en-suite to the rear and also reduced the height of the rear boundary wall to 1.8m thus increasing the area of private open space which is now in line with the previously granted permission.
- They have included a cross section to show the relationship between the proposed dwelling and no.43 Pearse Square.
- The windows at first floor on the rear elevation will be bottom hung windows. This has been highlighted on the drawings submitted.
- A 'walk-on' roof light has now been proposed on the second floor roof garden in order to bring light into the first floor living area.

3.2.3. Planner's Response

The Planner had regard to the F.I submitted and noted the revisions made. They concluded that the Applicant has adequately addressed the concerns of the P.A. They considered that the revised design of the proposed dwelling to be a high quality contemporary design, with the height being subservient to the P.S. They considered that it would not significantly impact on adjoining properties and is in accordance with the DCDP 2016-2022 and proper planning and sustainable development of the area. They 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 proposed development subject to compliance with current standards and recommended drainage conditions.

3.4. **Prescribed Bodies**

3.4.1. Transport Infrastructure Ireland

The TII notes that the proposed development falls within the area set out in the Luas Red Line Docklands Extension Section 49 Levy scheme. They recommend a condition on any grant of permission to include a Section 49 Luas Red Line Docklands Extension Levy.

3.5. **Third Party Observations**

3.5.1. These have been received from local residents including the subsequent Appellants and Observers and include the following:

- The proposed planning application does not follow the guidelines set out in and is contrary to policies and objectives set out in the DCDP.
- The proposed design would impact adversely on the CA, Residential Conservation zoning and also on the adjoining houses (P.S) to the west facing Pearse Square.
- 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.
- The proposed three storey design, will be excessive in scale and height and will be visually out of character with the houses in the residential Pearse Square. A two storey development with larger private open space in character with the area on this site would be preferable.
- The unprecedented height is out of scale with regard to the houses on Macken Street, dominates adjacent properties and will detract significantly from the residential amenities. It will be detrimental to the Conservation Area.

- The outlook of rooms with regard to light, including basement rooms, should not be obstructed. The rear bedroom on the ground floor does not meet development plan standards. Lack of open space available.
- The site lies within the curtilage of a P.S. no.43 Pearse Square. Lack of clarity on the plans including relative to the distance to the rear of no.43 Pearse Square. For privacy reasons they ask that the proposed rear terrace be omitted.
- The proposed dwelling has very limited open space available. It is in excess of the indicative site ratio for a Z2 site.
- Issues regarding privacy and security and limited distance to adjoining properties. Overlooking from the rear will be an issue.
- Drawings and Photographs are included with the submissions.

4.0 Planning History

4.1.1. Subject site:

- Reg.Ref.2128/12 – Permission granted by Dublin City Council subject to conditions for the demolition of an existing garage, and the construction of a new terraced two-storey with attic residence and home office with screened terraces at first floor level and attic dormer to rear. This house was never constructed.

A copy of this permission is included in the Appendix to this Report.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

This is the pertinent plan and includes the following:

Section 2.3.3 refers to ‘Promoting Quality Homes’ and includes: *The provision of quality housing that is suitable for citizens throughout their lives and adaptable to people’s changing circumstances is fundamental to creating a compact city with sustainable neighbourhoods.*

Section 5.5 refers to National and Regional Housing Strategy.

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).*

Section 5.5.2 seeks to provide for Sustainable Residential Areas. This includes Policy QH7: *To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.*

QH8: *To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.*

Section 11.1.5.4 refers to Architectural Conservation Areas & Conservation Areas and includes: *Architectural Conservation Areas and Conservation Areas have been designated in recognition of their special interest or unique historic and architectural character and important contribution to the heritage of the city. This also includes: Dublin City Council will thus seek to ensure that development proposals within all Architectural Conservation Areas and Conservation Areas complement the character of the area, including the setting of protected structures, and comply with development standards.*

Policies CHC1 and CHC4 seek both preservation and positive contribution to the streetscape and the protection and enhancement of Dublin’s Conservation Areas.

Section 14.1 refers to the ‘Zoning Principles’ - As shown on Map H the site is within the Z2 Residential Neighbourhoods (Conservation Areas) Land Use Zoning where the Objective is: *To protect and/or improve the amenities of residential conservation areas.* The site is also within a Conservation Area. The opposite side of Macken Street is with S.D.R.A 6.

Chapter 16 provides the ‘Development Standards’ and regard is had in particular in this case to the following Sections:

Section 16.2.2.2 refers to Infill Development and this includes: *To ensure that infill development respects and complements the prevailing scale, architectural quality and the degree of uniformity in the surrounding townscape.*

Section 16.4 has regard to the Density Standards 16.5 to Plot Ratio standards and 16.6 to Site Coverage.

Residential Quality Standards for houses are referred to in Sections 16.10.2 and 16.10.3. Section 16.10.4 refers to Making Sustainable neighbourhoods.

16.10.10 refers to criteria relevant to Infill Housing and 16.10.16 to Mews Development.

16.38 and Table 16.1 refer to Car Parking Standards.

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 13.1.2 provides: *In many cases the curtilage of a protected structure will coincide with the land owned together with it but this is not necessarily so. For example, in the case of a town house, the main house, the area and railings in front*

of it, cellars below the footpath, the rear garden and mews house may be considered to fall within its curtilage even where the mews house is now in a separate ownership.

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? (h) impact of the new building on the P.S?

6.0 The Appeal

6.1. Grounds of Appeal

Two Third Party Appeals have been submitted. Their concerns include the following:

6.1.1. Alan Mathews

He is the owner/occupier of no. 45 Pearse Street, and wishes to appeal to appeal against the Council's decision on the following grounds:

Site Coverage

- The site coverage of the proposed development is 85.74% which is significantly above the indicative site coverage ratio in the DCDP for this Z2 zoned site i.e 45%.

Height, Plot Ratio and Scale

- The proposed development is significantly higher on both the front and rear elevations than the other mews type dwellings on Macken Street. The drawings submitted fail to satisfactorily show the relationship with the houses in Pearse Square.

This drastically affects the appearance of the structure from the rear gardens of these family homes.

- The Plot Ratio is significantly higher than the Indicative Plot Ratio in the Z1 & Z2 Area.

- The scale of the property is overbearing for the residents of the original Victorian terrace houses on Pearse Square. The three storey property has only a minimal set back and will create a three storey high rear building wall.

Rear Terrace

- They ask for the omission of the enclosed rear terrace on the 2nd Floor to protect the residential amenities of the residential properties in Pearse Square. There is no such precedent in the area. Also they ask that the third floor windows be fixed and opaque.

Assessment by Dublin City Planning Department

- They are concerned that the proposal has not been assessed in line with its location to the rear of and within the curtilage of a P.S. They consider this contrary to planning policy in the DCDP (2011-2017) relative to mews dwellings and to the Architectural Heritage Guidelines relative to curtilage.

Planning Precedence

- The Planner's Report failed to take account of planning precedence and they provide details of such.

They note that the applicant already has permission Reg.Ref. 2128/12 to construct a two storey mews house on the subject site. They conclude that the proposed development would constitute an overdevelopment of site and a cramped form of development and would seriously injure the amenities of adjoining properties and be contrary to the proper planning and sustainable development of the area.

6.1.2. Barbara Dawson

Roisin Hanley Architects Ltd. Has submitted a Third Party Appeal on behalf of Barbara Dawson who lives at no.44 Pearse Square, a Protected Structure. The grounds of appeal include the following:

- They are concerned that the proposal will be detrimental to and will not protect the character and overall quality of the Z2 Residential/Conservation zoning and the Conservation Area. The proposal does not follow or comply with the guidelines set out in the DCDP.

- They have serious concerns with various elements of the design and if permission is granted, request the omission of the roof terrace element.
- They are concerned that the proposed set back from nos. 43 and 44 Pearse Square is inadequate and request that it be increased by at least 3m from the boundary line.
- The proposed house with large floor to ceiling window on the first floor will impact on their privacy and lead to overlooking of the rear garden of no.44 Pearse Square. The drawings submitted do not accurately show the rear of no.44.
- The application site is the end of the original garden of no.43 Pearse Square (they refer to historic mapping) and they consider that it lies within the curtilage of this P.S and should be considered as such.
- A three storey building occupying this mews site inverts the traditional relationship between the main house, a P.S, and the subservient structure to the rear and is contrary to the aims of an ACA.
- There is a lack of clarity in the plans submitted, including at F.I stage. The Section AA does not adequately show the height relationship between the P.S and the proposed three storey dwelling. The height of the new build shown on the plans when measured from Macken Street is higher than shown.
- The proposed development is taller than shown on the plans and is not subordinate to the P.S (Fig.5 refers). It would not comply with the traditional relationship between the main houses on the square and the houses in the original gardens that face Macken Street.
- They have regard to the plans submitted and consider that some of the accommodation provided having regard to room sizes, daylighting and ventilation does not meet development standards.
- In view of the three storey height there are concerns with regard to means of escape because of lack of external space - fire certification will be required.
- They consider that a two storey dwelling would be more appropriate on this site and in keeping with the character of mews developments on Macken Street.

- They consider the scale and height of the proposed development will impact adversely on the character and residential amenities of the area and ask the Board to refuse permission.
- The appeal includes the signatures of the Pearse Square residents who are supporting the Third Party objections and concerns.

6.2. Applicant Response

Fergus Flanagan Architects has submitted a response to the grounds of appeal on behalf of the First Party.

- They provide a description of the proposal and design concept and conclude that the proposed development complies with planning policies and guidelines and will not detract from the amenities of neighbouring properties.
- They note the site location relative to the modern higher rise build on the opposite side of Macken Street, and the range of buildings in the area.
- The rear of the properties in Pearse Square are not of any particular architectural merit, the conservation of the square is due to the architectural and historical merit of the square.
- The statement that the roof garden will be used for noise related activities is purely speculation.
- Macken Street is a busy main access road and the site could not be considered as a mews development.
- The development of Macken Street should not be defined by the haphazard poor quality existing two storey houses and warehouse used as a gym, but by the surrounding high quality architecture.
- The design ensures that adequate light is provided to the bedrooms. This includes regard to the rear yard area.
- Drainage will not be an issue or impact on the yard area.
- Opaque glazed screens to the windows and roof garden at the rear will ensure that there will be no overlooking of neighbouring properties.

- Fire Certification is an issue for Building Control. The completed building will comply with the building regulations and the stairwell will be protected.

6.3. **Planning Authority Response**

They have no further comment to make and consider that the planner's report on file adequately deals with the proposal.

6.4. **Observations**

Two separate Observations have been submitted. These are as follows:

6.4.1. Orla McCabe

She is the owner of no.43 Pearse Square the house most directly affected by this grant of permission and is concerned that the size, height, scale, overlooking and open terrace granted in the DCC permission will result in:

- It would result in an invasion on the privacy of no.43 Pearse Square and be contrary to her family's right to the reasonable comfort and convenience in the occupation of their home.
- She considers that the grant of permission ignores her legally protected rights above the perceived rights of the applicant and is not in compliance with the zoning guidelines and common sense.
- She requests the Board to weigh up the objections of the residents in Pearse Square and to refuse permission for the proposed development.

6.4.2. An Taisce

They wish to express support for the third party appeals lodged in connection with the proposed development. Their Observation includes the following:

- They note the character and protected status of the properties in Pearse Square, that the square is a designated CA and within the Z2 Residential/Conservation zoning, thus a high degree of care is needed in any proposal.

- They are concerned about the impact of the proposed three storey development on the amenities of the properties which are P.S in Pearse Square and on the more traditional developments in Macken Street.
- Although having a separate address the development site is a rear site property on Pearse Square and must be considered as part of the overall ensemble of the historic square.
- A high degree of care is needed in the assessment of new development which might affect the setting and amenities of the square and its property.
- They consider that modifications are required to protect the amenities of the properties in Pearse Square, having regard to its P.S and the CA designation.

7.0 Assessment

7.1. Principle of Development and Planning Policy

- 7.1.1. As shown on Map E of the Dublin City Development Plan the subject site is within the Z2 zoning where the Objective is: *To protect and/or improve the amenities of residential conservation areas. Section 14.8.2 provides: 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.*
- 7.1.2. While not a Protected Structure, the subject site adjoins the curtilage of the P.S nos.43 and 44 Pearse Square to the west. Policy CHC2 seeks: *To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage.* The site is also within the Pearse Square Conservation Area. Section 11.1.5.4 refers to ACA's and Conservation Areas. The site is not within an ACA. Policy CHC4 seeks: *To protect the special interest and character of all Dublin's Conservation Areas (11.1.5.4). Development within or affecting all conservation areas will contribute positively to the character*

and distinctiveness; and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

- 7.1.3. The Third Party Appellants and Observers are concerned that the proposed development in view of its design, scale and three storey height will be excessive on this restricted site and will lead to a cramped form of overdevelopment which will detract from the visual appearance of the more traditional buildings in the Conservation area and also will not be subservient to the P.S in Pearse Square. They consider that it does not comply with Planning policies and objectives and will detract from the character and amenities of the area. The First Party provide that they have designed the house to comply with or exceed the recommendations of the development plan and are proposing high quality finishes and materials that will complement the existing built environment. They provide there will be no overlooking of neighbouring properties and the house will offer a high quality living space with rooftop urban garden which exceeds the minimum requirements of DCC.
- 7.1.4. The opposite side of Macken Street is within Strategic Development Regeneration Area 6 Docklands (SDZ and Wider Docklands Area). The higher more contemporary form of development on this side of the road is primarily commercial and includes the Bord Gáis Energy Theatre, to the north east. Heights range from 7 stories and there is some mixed use/ apartment development to the south east. Therefore, it is considered that there is a significant difference between the more contemporary development on the eastern side of Macken Street and the lower profile, generally more traditional form of development on the western side, in particular the ensemble of the P.S in Pearse Square Conservation Area. It is noted that the subject site is located in the latter. Therefore, the considerations relative to the C.A and the P.S in Pearse Square are relevant in the assessment of the subject application.

7.2. Regard to Planning History and Context

- 7.2.1. The Observation from An Taisce notes the sensitivity of the location and that Pearse Square is a formally laid out square of period brick residences in the tradition of the city's Georgian and Victorian squares. Having regard to the historic mapping it is noted that the site originally formed part of the rear garden of the P.S no.43 Pearse Square. It has been subsequently sub-divided, although the date when this occurred has not been given. There is gated access from Macken Street and a boundary wall

around the subject site which appears to have been in situ for some time. The rear garden area of no.43 has thus been substantially reduced.

- 7.2.2. The issue of what constitutes curtilage of a P.S has been raised by the Third Parties. Section 13.5.1 of the Architectural Heritage Guidelines 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.* An Taise Observation provides: *Although having a separate address, the development site is a rear-site property on Pearse Square, and must be considered as part of the overall ensemble of the historic square.*
- 7.2.3. It is of note that Section 11.1.5.3 of the current DCDP (relates to the curtilage of P.S) provides: *The design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure. 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. Any development which has an adverse impact on the setting of a protected structure will be refused planning permission.*
- 7.2.4. The Third Parties refers to considerations relative to Mews Developments as per the criteria in Section 16.10.16 of the DCDP. However, this refers primarily to development on mews lanes and it is not considered that Macken Street which is a busy heavily trafficked, wide access route would constitute a mews lane scenario. Therefore, such considerations are not particularly relevant to the subject site. Rather this is seen in the context of an albeit restricted infill development site to the rear of the P.S in Pearse Square.
- 7.2.5. As noted in the History Section above there has been a previous planning application for a dwelling granted on this site in August 2012. Reg.Ref.2128/12 refers. Since that time the garage has been demolished and the site has been cleared but no construction works have commenced. Therefore, the original permission has not been enacted. It is noted that as per the description of development, the dwelling then proposed was two storey. Having regard to the plans the new dwelling then appeared three storey to the rear. Revised plans were

submitted at F.I stage showing a pitched roof form at second floor level which was then considered by the Planner to be more in keeping with the roof profiles in the area. Therefore, it is considered that the principle of a dwelling has been previously accepted on this site. However, it is noted that this permission is due to expire in the near future.

7.3. Design and Layout

- 7.3.1. Regard is had to the alternative design and layout presented by the subject application as amended by the F.I submitted. It is noted that a Design Statement has been submitted with the application which has regard to the contemporary form of the proposed development. The total floor area of the house is given as 121.7sq.m. (It is noted that the scales are shown incorrectly on some of the plans but the dimensions are given i.e floor plans 1:100 are in fact 1:50 etc). The ground floor is to comprise two bedrooms and a bathroom and is shown as 50sqm. The original plans included an en-suite which has now been omitted to allow for an increase in the rear yard area to 8.8sq.m. to increase the area of private open space.
- 7.3.2. The first floor is to comprise lounge/kitchen/dining area and is shown as 47.3sqm. The F.I. submitted provides that the windows at first floor on the rear elevation will be bottom hung windows with opaque cladding to prevent overlooking. The second floor accommodation to comprise a games room is shown set back and is to comprise 24.4sq.m. As shown on the plans a terrace of 16.6sq.m is to be provided at the rear and this is to have an opaque screen of 1.8m on the side elevations and a 1.8m high opaque screen on the rear elevation. A narrow front terrace is also to be formed on the second floor front elevation facing Macken Street shown 5.62sq.m in area.
- 7.3.3. The overall height of the proposed flat roofed development is shown as 8.6m. Regard is had to the Sections and Elevations submitted. It is noted that the northern elevation will adjoin the warehouse building which is of a similar height at the apex albeit with a pitched roof. The southern elevation will adjoin the single storey garage structure to the rear of no.44 Pearse Square. It will be seen as a taller structure in the context of the streetscape as the adjoining sites to the south comprise single storey garage type structures and lower two storey returns to the rear of the P.S.

7.3.4. Section 16.38 of the Plan provides: Car parking provision in Zones 1 and 2 is restricted on account of the proximity of these locations to public transport. An increased density of development will be promoted in Zone 1 and those parts of Zone 2 where the development is in close proximity to good public transport links. As shown on Map J of the DCDP the site is within Area 1. Table 16.1 notes a maximum of 1 space per dwelling. No on-site parking is proposed, however there is some restricted on-street parking in the area and the site is close to public transport links.

7.4. Impact on the Character and Amenities of the Area

- 7.4.1. The concerns of the Third Parties and Observers are noted. It is acknowledged that this is a new form of residential development on this side of Macken Street. While separated from the more traditional two storey terraced houses further to the south by the single storey garage structures, it will appear higher than the pitched roof of the warehouse gym building which adjoins the site to the north. The issue of the height not being subordinate to the P.S to the rear in Pease Square has been raised both by the Third Parties and in the Council's F.I request. In response the applicant submitted a cross section A-A showing the height of the proposal in the context of no.43 Pease Square. This shows that the proposed dwelling is below the ridge height of no.43. The height of the roof from street level is equivalent to the parapet height of the P.S on Pease Square and is significantly higher than the original rear returns of the Pease Square properties.
- 7.4.2. The Third Party is concerned that drawings submitted fail to show a satisfactory cross section of the building in relation to these properties. Also that it is important to note that the garden levels of the Pease Square properties are below the street level and Macken Street is c.1m higher than the ground level of Pease Square. It is considered important that the height of the proposed dwelling be subordinate and not be visible from Pease Square and it is recommended that if the Board decide to permit that it be conditioned that revised plans be submitted showing the height not exceed 8m.
- 7.4.3. Regard is had to the separation distance between the existing and proposed development. Section 16.10.2 provides the Residential Quality Standards for Houses. This includes: *Traditionally, a separation of about 22m was sought between the rear of 2-storey dwellings but this may be relaxed if it can be demonstrated that*

the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers. In this case as shown on Section A-A there is 5.2m between the rear of the proposed development and the return of no.43 and c.12.9m between the rear of the main house and the proposed second floor set back (c.9.9m to the terraced area). It is not considered that these set-backs relative to the proposed design and proximity to the rear of no. 43 Pearse Square are adequate.

7.4.4. The First Party provide that the issue of overlooking is addressed through the use of opaque glazing in the windows and opaque glazed screens around the roof garden. It is noted that to prevent overlooking towards the rear of no.44 Pearse Square a 1.8m opaque glazed screen is proposed on the southern elevation. In order to minimise overlooking at the rear towards no.43 it is recommended that if the Board decide to permit that it be conditioned (as shown on the F.I submitted) that there also be a 1.8m opaque glazed screen at the rear and that all the proposed first and second floor rear windows be obscure glazed. There were concerns with the height of the boundary wall given the tight separation distance to the dwelling at the rear. The revised plans show this wall lower and the ground floor rear windows are to be screened by the 1.8m high boundary wall, which will mean a reduction in the height of the existing rear boundary wall.

7.4.5. There is also concern that the proposed development relative to room sizes, ventilation and lighting and private open space is substandard and does not comply with the Residential Quality Standards. Section 16.10.2 provides: *Houses shall comply with the principles and standards outlined in section 5.3 'Internal Layout and Space provision' contained in the then DEHLG 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities'.*(2007). Table 5.1 of these Guidelines refers. However, it is noted that the room sizes are in accordance with minimum standards. The revised plans include that the rear yard provides adequate light and ventilation to the bedroom and the front bedroom is the same as that previously granted permission. They also propose a walk-on roof light on the second floor roof garden in order to bring light into the second floor living room. As shown on the revised plans the proposed development allows for i.e 8.88sq.m in the yard at the rear and 5.62sqm in a narrow terrace which is shown c.1m in width at the front, with the roof terrace of 16.6sqm.i.e.

31sq.m. This is considerably below the minimum standard of 10sq.m per bedspace (Section 16.10.2) which would be 40sq.m in this case.

7.4.6. The issue of overdevelopment of site has been raised relative to plot ratio (1.74) and site coverage (71.40%). In this respect regard is had to Section 16.5 which provides that indicative plot ratio relative to the inner city is 0.5 to 2.0 and Section 16.6 which provides that Indicative Site Coverage is 45%. Therefore, there is concern that this proposal will lead to a more cramped form of development on this restricted site area.

7.4.7. However, while regard is had to the modifications submitted in the F.I, there is concern that there will be a considerable loss of outlook for no.43 and that the proposal will be overbearing relative to its impact on the rear of the adjoining P.S in Pearse Square. It will also appear not in character with the more traditional form of build which includes pitched roofs in the Conservation Area. It is therefore considered that the proposed development will be visually obtrusive having regard to its excessive scale and height and that it will set an undesirable precedent and will not enhance the character of the P.S or the Conservation Area.

7.5. **Regard to Precedent Cases**

7.5.1. The Third Parties are concerned that planning precedence in the area has not been taken into account. It is noted that there are no other three storey residential properties on this side of Macken Street. They refer to a previous Board decision to refuse permission for a three storey development facing onto Hanover Street East to the rear of the P.S no.33 Pearse Square. (Ref.PL29S.204099 refers and is included in the Appendix to this Report).

7.5.2. They also refer to Reg.Ref.5865/04 where planning permission was granted by the Council for the replacement of a terraced house damaged by fire and the construction of a new two storey terraced house at no.32d Macken Street. This forms part of the more traditional two storey terrace on the southern side of Macken Street. It is noted that this is set back more than 6m from the P.S no.51 Pearse Square.

7.5.3. While these are of note, it is noted that each case is considered on its merits having regard to the locational context of the site and to the proper planning and sustainable development of the area.

7.6. **Appropriate Assessment**

7.6.1. The current proposal is for the construction of an infill house in a fully serviced urban area. 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. Having regard to the documentation submitted, the submissions made by the parties and to the site visit and assessment above it is recommended that permission be refused for the proposed development for the reasons and considerations below.

9.0 **Reasons and Considerations**

1. It is considered that the proposed three storey dwelling by reason of its height, scale and design would be visually obtrusive on this restricted site area and would represent a cramped form of over development which would not enhance and would be out of character with the protected structures and pattern of development in the Pearse Square Conservation Area. As such it would be contrary to Policy CHC4 of the Dublin City Development Plan 2016-2022. It would also lead to a substandard form of residential development for future occupants lacking in adequate private amenity open space and would not comply with Section 16.10.2 (Residential Quality Standards) of the said Plan. The proposed development would therefore set an undesirable precedent for further such development and would seriously injure the visual and residential amenities of the area, and would be contrary to the proper planning and sustainable development of the area.

Angela Brereton,
Planning Inspector

30th of June 2017