



An
Bord
Pleanála

Inspector's Report ABP-300120-17

Development	Demolition of garden pavilion & construction of 2 storey mews house with 1st floor roof terrace using the existing off street parking & vehicular access off Rathgar Place, and associated site works on site to the rear.
Location	Rear of 173, Rathgar Road, Dublin 6
Planning Authority	Dublin City Council (South Area)
Planning Authority Reg. Ref.	3077/17
Applicants	Anne Neary & Conor Farren
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	Michael & Rosemary Lyons William Gallagher & Catherine Halley Rathgar Residents Association Etain Doyle
Date of Site Inspection	20 th February 2018
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1. The site is located to the rear of 173, Rathgar Road, Dublin 6.
- 1.2. The site comprises two rectangular portions; the first is the rear part of the garden of No. 173 Rathgar Road; the second, running partly along but at right angles to the first is the laneway to the rear which serves the adjoining dwelling to the south, at No. 172 Rathgar Road, and a detached garage which is part of the property adjoining to the north, No.173. The right to include the laneway within the red line boundary has been contested in the appeal.
- 1.3. Dwellings along Rathgar Road are terraced dwellings and form a continuous building line set well back from the road with large front gardens, some with parking. The three dwellings forming the terrace at no.s 172-174 are of a similar style, differing from those to the south from which they are separated by the laneway, Rathgar Place. This laneway runs between No. 172 and No. 171 emerging along a straight stretch of road where the roadside boundaries provide virtually no sightlines at the junction with the footpath along Rathgar Road. The laneway forms a T junction at the rear of the bounding sites (171 and 172) with the north section gated and serving the subject property and two others; and the south section serving about 10 properties all occupied by mews type former outbuildings, several converted for residential and other uses. Branching from the laneway are two lanes which run eastwards to York Avenue, these are narrow pedestrian lanes which form part of a network of rear access laneways and pedestrian routes in the area.
- 1.4. The dwelling on the host site is a protected structure as are the adjoining dwellings. To the south of the subject site, a coach house is located to the rear of No 171. This is also a protected structure and has been carefully restored in the recent past.
- 1.5. To the north, to the rear of No 172, there is a bungalow with its long axis oriented east west, along the length of the site, and with access from York Avenue. The detached garage referred to earlier is associated with this bungalow.
- 1.6. The subject site can be viewed from York Avenue, across the side garden of No 4 where the existing view comprises the contrasting building styles of the Edwardian

buildings on York Avenue, the two storey stone coach house, the detached garage and the bungalow.

- 1.7. The subject site is occupied by a single storey building which has extensive glazing on all sides and is a recreational space used in conjunction with the main dwelling. The mature landscaping on the host site does not extend to the development area. High masonry walls bound the property to north and south and along the eastern boundary parallel to the detached garage. Double gates form the most of the remainder of the boundary to the laneway. Part of a stone wall projects from the boundary wall/coach house wall at the laneway. This stub wall is part of a former boundary wall between the site and the laneway and is referred to on the file. The site is not demarcated from the host site.
- 1.8. Rathgar Road is an important arterial road and bus route. The subject site is located near the Rathmines end of the road. On-road parking is not permitted along most of Rathgar Road and there appears to be demand for parking on roads reading off Rathgar Road.
- 1.9. The main dwelling has vehicular access from Rathgar Road and a gravelled area to the front of the host dwelling used for off street parking.
- 1.10. The site is given as 0.0399 ha.

2.0 Proposed Development

- 2.1. The proposed development, as originally presented to the planning authority, is the demolition of the garden pavilion & the construction of 2 storey mews house with 1st floor roof terrace enclosed by an opaque screen using the existing off street parking & vehicular access off Rathgar Place, and associated site works. The entrance from the laneway accesses a single car space which is partly overhung by the first floor. To the north of the parking courtyard is the dwelling entrance and stairwell, a study, toilet and utility area, with windows to north and south, The building is set back from the northern boundary by 1m. To the west of the courtyard the proposed dwelling extends to the southern boundary with a large living/dining/kitchen occupying the space and at the northern end the building extends further west with a conservatory which together with the living area partly encloses a terrace / garden.

- 2.2. In the livingroom, a fireplace and chimney, are located in the wall at the southern boundary. At first floor level the building has a staggered elevation along the north, with the separation distance increasing away from the eastern end. Two bedrooms occupy the eastern end, one facing towards the courtyard, one facing west. The master bedroom adjoins the southern boundary and faces west with double doors onto an enclosed roof terrace to the north.
- 2.3. The application was accompanied by an Architectural Heritage Impact Assessment and Photographic Survey by CODA Architects, a grade 1 RIAI Conservation Practice, which includes: Rathgar Road is an avenue of substantial houses constructed from the mid nineteenth century onwards. The house is a two storey over basement terraced house c 1843 with a brick façade over rendered basement forming part of a uniform terrace. The vast majority of the houses on the road are Protected Structures. The rear elevation is a two storey over basement sand/cement rendered wall with a variety of cast iron and pvc rainwater / soil pipes. There is a two storey central return with steps leading from the upper level to a raised garden area. The garden is c 49m long from the rear of the main house to the end of the garden. The cul de sac spur from Rathgar Place is terminated by the rear wall of a garage belonging to the adjacent bungalow to the north, at the rear of No. 174 Rathgar Road, which has independent access from York Avenue. The original masonry rear wall of No 173 has been mostly removed in the past except where it aligns with the non-original garage to 173 and a small low level nib of wall where it abuts with No 172. The adjacent site to the south has an original stone gable fronted coach house which was derelict but is currently being refurbished to create accommodation over 2 levels. No 173 has always had vehicular access to the rear and this was the only vehicular access until the new vehicular access was created to the front of the house pursuant to planning permission Ref. 2347/02. The low level masonry nib of the old rear wall of 173 abutting the boundary 172 is to be cut back and repaired to leave a small masonry pier to identify the line of the old rear boundary wall.
- 2.4. The assessment states that the value of the protected structure is primarily in its contribution to the streetscape and its architectural setting: the wide streetscape onto Rathgar Road and the quality and variety of the two storey over basement houses which were constructed in small groups of two and three houses. The setting of the protected structure as viewed from Rathgar Road will not be interfered with. It has

been designed so that it does not abut the original coach house at the rear of No 172, except for where the flat roofed carport meets the party wall. The distance between the rear of No 172 and the first floor opposing rear windows is c 28m. The separation distance and the mature gardens means that the impact of any proposal in the rear laneway is minimised.

2.5. The proposed development was modified following a further information request.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 9 conditions, including:

3 external finishes to be agreed.

4 construction noise.

5 maintaining the street during construction.

6 conditions of the Drainage Division.

7 Traffic Division

a) Construction Management Plan, including traffic management.

b) The existing gates to the property from Rathgar Place shall be removed or replaced by automated gates to facilitate ease of access to the property. Details of same shall be submitted to the Environment and Transportation for written agreement prior to the commencement of development.

c) cost of repairs.

d) CoP.

8 conservation requirement:

The applicant shall submit for the written agreement of the planning authority:

i Where new build interfaces/impacts on the structural stability of the extant coach house gable/boundary wall details of the proposed work including methodology for repair to be provided.

ii High quality materials to be provided for the flat roof detail.

Reason: To ensure that all works are in accordance with best conservation practice.

9 construction hours.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report, 28th July 2017, recommended further information on 5 points:

1 Demonstrate sufficient legal interest and/or rights of access over the laneway from Rathgar Road.

2 The applicant has indicated in the application documents that the rear vehicular access has continued to be in use in addition to the front vehicular access. Requested to clarify this statement and to indicate the frequency of use and for what vehicles.

3 Submit auto track drawing illustrating access to the lane from Rathgar Road.

4 Give consideration to removal of existing gate from Rathgar Place to facilitate ease of access to the lane and negate against queuing on Rathgar Place.

5 The planning authority has concerns that the design does not adequately address the overbearing impact the proposal will have on the adjoining coach house, No 172 Rathgar Road and No 173 regarding the proximity, size and scale of the proposal. Additional details are invited.

The report includes reference to the planning history, the observations received, development plan policy, interdepartmental reports: Engineering Department Drainage Division Report – no objection, Conservation Officer – no objection, Roads & Traffic Planning Division Report – requesting further information.

3.2.2. A further information request issued 1st August 2017.

3.2.3. The further information response received 15th September 2017, includes:

- 1 A solicitor's letter stating legal interest and/or rights of access over the laneway.
- 2 Letter from applicants stating their use of the laneway.
- 3 The record demonstrates a regular vehicular access to the subject site over many years. While the access is not a textbook standard, it has proved adequate in the past and presents similar constraints to the other properties accessing from Rathgar Place. The provision of 1 parking space is within the maximum standard allowed.
- 4 They agree to the removal of the gates, which were paid for and erected by the previous owner of 173 Rathgar Road and are part of their property. They believe that taking the gates away altogether will improve access to the laneway for everyone who has rights of way over it, will widen the clear width of the entrance between the masonry piers, and improve visibility from Rathgar Place and the pedestrian lane.
- 5 The response outlines issues arising from amendments which they were considering and proposed revisions are put forward omitting the 1st floor roof terrace and moving the master bedroom north into this space. Overbearing to No 172 from the two storey wall would be avoided. A projecting patent reveal has been added to the window reveal of bedroom 3 to eliminate the perception of overlooking to the side, to the garden of No 172. The revisions with a reduced first floor area of 172m² (3m² reduction) total floor area 192m², are shown in drawing no. 1610/01-07 Rev-F1 and in sketch up model images.

3.2.4. Revisions are to first floor only and include omitting the 1st floor roof terrace, moving the master bedroom north and providing a projecting window reveal to bedroom 3 which faces south. The revised building extends to 1.6m (and in part 2.7m and 2.85m) from the southern boundary. The fireplace remains in the southern wall of the livingroom so that the chimney crosses the roof of the building diagonally to continue upwards within the first floor.

3.2.5. Planning Report – 12 Oct 2017

The proposed mews is a three bedroom two storey house with a roof terrace at first floor with a total floor area of approx. 195 sq m.

The mews is located adjacent to a recently refurbished coach house which is located to the rear of No 172 Rathgar Road. The applicant submitted an Architectural Heritage Impact Assessment Report and Photographic Survey Report.

Planning permission was previously granted for a three bedroom two storey mews development (Ref. 5469/08) which has now lapsed. The proposed house is substantially as per the previously approved house although there are additional elements including the enclosed roof terrace and the en-suite and bathroom located at first floor level. The private open space has increased from 56 to 106 sq m.

Planning permission was refused on this site for a two storey two bedroom mews, ref 3279/07 based on the limited vehicular capacity in terms of both access and/or egress and vehicular manoeuvrability in the lane itself. No car parking was provided on site in this application.

Assessment of responses to the further information request:

1 The applicant's solicitor submitted a letter confirming ownership of the property and rear lane. Considered acceptable.

2. The applicant has submitted a report on the use of the laneway and clarifies that the entrance is used on a regular basis.

3 Drawing no. 1610/P08 Rev FI illustrates auto track movement into the property. It is stated that the applicant typically drives around the corner of Rathgar Place opens the gates and reverses into the laneway. Roads & Traffic Division are satisfied.

4 The applicant has contested that the existing gates were paid for and erected by the previous owner of the property. The applicant has confirmed that they have no objection to the removal of the gates on the basis of no objection from the adjoining landowners or the provision of automated gates in place of the existing gates. To be addressed by condition.

5 The applicant submitted a revised design omitting the roof terrace proposed at first floor level and relocating the master bedroom away from the boundary with No 172 and towards the centre of the site. This has resulted in the extent and perception of overlooking being reduced while also addressing the impact the two storey element would have on the adjoining coach house.

The Conservation Officer (second) report is included in full. The planner's report states that Rathgar Road comprises a consistent run of protected structures which are all consistent in style. The mews development is proposed to the rear of these protected structures and cannot be seen from Rathgar Road. The proposal should not be assessed in the context of an infill development along Rathgar Road. Instead it should be assessed as a mews development proposed to the rear, adjoining other developments and a coach house. The site is considered acceptable in principle for accommodating development.

Due to the fragmented development that has taken place here over time there is no established pattern of development along the laneway. As the laneway is not characterised by mews development of similar style and massing, any further development is not required to respond to a particular design to ensure consistency and symmetry along this laneway.

The proposal is therefore assessed on its own merits and design response to the site context. Modifications of the roof terrace and the relocation of the master bedroom towards the centre of the site, ensures a greater set back from the boundary wall with No 172.

In this instance, following the amendments made at Additional Information stage, the design is considered acceptable.

Zoning Z2 to protect and or improve the amenities of residential conservation areas.

No 173 is listed on the record of protected structures – RPS 7136.

Development Plan

11.1.5.3.

11.1.5.6

Policy CHC2

16.10.16 mews

3.2.6. Other Technical Reports

3.2.7. Conservation Officer – 3rd July 2017 – no substantive conservation issues, precedent noted.

3.2.8. Conservation Officer – 29th September 2017 – further clarification. Clarification of the proposed design to address the concerns raised by the Conservation Officer in section 5 of her report with respect of the overall impact of the proposed development.

- The roofscape and its treatment to mitigate the overall impact.
- The detail of all boundaries to respect the historic context and significance of adjoining structures in terms of structural stability, extension and conservation.
- The re-configuration of the plan to allow greater set-back of the new build at first floor level from the coach house in line with the garage structure.
- Revision of the proposed fenestration to the rear façade at first floor level to reflect the character of the adjoining historic openings.
- Clarification of the landscape particulars to ensure the repair of a historic setting and amenity.

Commentary

The Conservation Officer notes the evolution of the site and the subdivision and incremental development that has occurred in relation to the sites No 174 and No 173. The subject site is a further development of a previously subdivided site No 174 which achieved a substantial bungalow within its original plot and garage within the building plot of No 173. One could argue that significant development has already taken place within the setting of the protected structure No 173.

The surviving coach house to No. 172 is significant as it is an unusual typology to the adjoining terrace and orientated differently within the building plot situated onto any boundary and suggests the plan was similar for Nos 172-174.

The bungalow to 174/173 is not the appropriate plan form, site arrangement or typology to reference in terms of designing a contemporaneous dwelling in the context of the protected structure / terrace.

The proposed new build has the role of negotiating a transition between a mid 20th century bungalow and a stone gable ended 18th century coach house. The planning authority needs to satisfy itself that the proposed design achieves this successfully and that the proposed development does not further undermine the context of the historic terrace and the adjoining ancillary structures.

Concerns are raised in relation to:

Building form, materials, fenestration, roof elevation, boundaries and the relationship of the new build to the extant boundaries and landscaping. Attention is drawn to the Architectural Guidelines section 3.10. and 6.7.1.

3.2.9. Engineering Department Drainage Division report of 30/06/2017 – conditions.

3.2.10. Roads & Traffic Planning Division Report – 21/7/2017 - there have been a number of planning applications for the subject site and similar applications for sites in the area. Of interest are the following:

5074/08 – new 2 storey detached 4 bed mews on the application site. Condition 2 – the car parking space for the mews house shown on the submitted plans shall be kept free from obstruction at all times for the use by the occupier of the dwelling and shall not thereafter be used for any other purpose other than the parking of vehicles.

3279/07 – refusal of permission for the erection of a semi-detached 2 storey 2 bedroom mews house, within the curtilage of protected structure at 173 Rathgar Road with vehicular access off Rathgar Place; reason citing limited vehicular capacity of the laneway.

There are several mews dwellings on Rathgar Place. Recent planning history:

2751/06 permission granted for two new 2 storey 2 bedroom terraced mews houses at the rear of 161 and 162 Rathgar Road. Permitted development includes setback

to provide an open courtyard at the front to facilitate vehicles including emergency / refuse vehicles to turn around to exit the laneway safely.

The City Development Plan outlines that parking should be provided within the curtilage of the mews dwelling site and not on the laneway. It is proposed to provide 1 no. off street parking space within the development.

This laneway is accessed from Rathgar Place which is a mews lane varying in width from 3.7m to 4.1m wide.

Mews laneways per development plan must have a minimum carriageway width of 4.8m (5.5m where no verges or footpaths are provided). The laneway is therefore below the minimum width.

Notwithstanding this, it is noted that planning permission was previously granted. While now expired the principle of vehicular access has been established. The application cover letter outlines that the existing house at 173 Rathgar Road has had a vehicular access to the rear and that this access is still in regular use.

Auto-tracking drawings illustrating a car manoeuvring in and out of the proposed car space is submitted. This does not illustrate access to the laneway from Rathgar Place. The objections raise the concern of conflict with outward opening gates of the coach house.

Sufficient legal interest in the laneway has not been detailed; to be addressed by further information.

Issues raised by observers are listed.

Additional information on the following points is required:

- 1 The existing laneway to the rear of 172/173 Rathgar Road appears to provide access to 3 no. properties. Letters of objection from adjoining property owners have questioned the applicant's right to undertake the development without the consent of adjoining landowners. The applicant is requested to demonstrate sufficient legal interest and/or rights of access over the laneway from Rathgar Road.

2 The applicant has indicated in the application documents that the rear vehicular access has continued to be in use in addition to the front vehicular access. The applicant is requested to further clarify this statement and to indicate the frequency of use and for what vehicles.

3 The applicant shall submit an auto track drawing illustrating access to the lane from Rathgar Road.

4 Consideration should be given to the removal of the existing gate from Rathgar Place to facilitate ease of access to the lane and negate against queuing on Rathgar Place.

3.2.11. Roads & Traffic Planning Division Report – 2/10/2017, including:

Referring to the responses received to the 4 items:

1 - they are satisfied with the response.

2 - they are satisfied with the response.

3 – drawing no 1610/08 Rev FI illustrates an auto track movement into the property. It is stated that the applicant typically drives around the corner of Rathgar Place opens the gates and reverses into the laneway. They are satisfied with the response.

4 – the applicant has confirmed that the existing gates were paid for and erected by the previous owner. The applicant has confirmed that they have no objection to the removal of the gates (on the basis of no objection from the adjoining landowners) or the provision of automated gates in place of the existing gates. The applicant has confirmed ownership of the gates and has raised no objection to their removal. To be addressed by condition.

Conditions:

Construction Management Plan, including traffic management.

The existing gates to the property from Rathgar Place shall be removed or replaced by automated gates to facilitate ease of access to the property. Details of same shall be submitted to the Environment and Transportation for written agreement prior to the commencement of development.

Cost of repairs to any public road and services at expense of the developer.

CoP.

3.3. Third Party Observations

In total 24 observations were received, including letters supporting the application.

Objections raised issues including:

Design, scale and size.

Disproportionately large dwelling on restricted site.

Other mews are half the size.

Similar to proposal in 2016 which was withdrawn.

Significant loss of amenity to local residents.

Overlooking overbearing.

Master bedroom, bedroom 2 and landing overlooks the garden of No 172.

Impact on coach house.

Why has the boundary been removed?

Not a mews development.

Large 4 bed house.

Contrasts with other mews developments in the area.

Site coverage is 45%.

Subdivision of rear garden of a protected structure should not be permitted.

Opening of locked gates will lead to anti-social behaviour.

Will be sold off.

Shadow study required.

Contravenes Development Plan standards.

Ownership of lane.

Car parking will overspill onto adjoining roads.

1 parking space is insufficient.

Emergency vehicles cannot access.

Rathgar Place is below the standard width required.

Construction traffic along narrow lane.

No pedestrian footpath.

Conflict with pedestrian walkway to York Avenue.

Conflict with outward opening gates to coach house.

4.0 Planning History

3877/16 – withdrawn.

5074/08 - permission granted, now expired, for new detached 2 storey 4 bedroom mews house, with off street parking and vehicular access.

5469/08 – permission granted for single storey rear basement, first floor extension, internal alterations, new internal openings, new services to basement, ground and first floors.

3279/07 – permission refused for new semi-detached 2 storey 2 bedroom mews house, with vehicular access for one reason which included the limited capacity of the laneway, congestion, lack of off street parking, increased activity would injure residential amenities.

5.0 Policy Context

5.1. Development Plan

5.2. The Dublin City Development Plan 2016-2022 is the operative plan. Relevant provisions include:

The Record of Protected Structures includes:

RPS _7136 No.173 Rathgar Road,

RPS _7135 No. 172, Rathgar Road,

RPS _7137 No.174 Rathgar Road.

Site is zoned Z2 (Residential Conservation Areas) to protect and/or improve the amenities of residential conservation areas.

Chapter 11.1 Built Heritage

It is the Policy of Dublin City Council:

CHC2: To ensure that the special interest of protected structures is protected.

Development will conserve and enhance Protected Structures and their curtilage and will:

(d) 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

The curtilage of a Protected Structure is often an essential part of the structure's special interest. In certain circumstances, the curtilage may comprise a clearly defined garden or grounds, which may have been laid out to complement the design or function. However, the curtilage of a structure can also be expansive and can be affected by development at some distance away. The protected structure impact assessment should also include an appraisal of the wider context of the site or structure and the visual impact. 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. The removal of rear gardens to permit underground accommodation is permitted only in limited circumstances. A garden size appropriate 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. Car parking will be permitted within the curtilage in accordance with policy CHC8 and standards as set out in the development plan, Section 16.10.18.

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and

enhance the character and appearance of the area and its setting, wherever possible.

11.1.5.6 Conservation Area – Policy Application

New development should have a positive impact on local character. In seeking exemplary design standards, the planning authority will require development in Conservation Areas to take opportunities to enhance the area where they arise. Where a building has been identified as having a negative impact on an area, a proactive approach to improvement will be sought. Where proposals involve demolition, policy for demolition of protected structures and buildings in architectural Conservation Areas should be referred to.

Standards

The standards in relation to mews dwellings is set out in 16.10.16 and includes

a) A unified approach to the development of residential mews lanes is preferred to individual development proposals.

b) Stone/brick coach houses on mews laneways are of national importance. Dublin City Council recognises the increasing rarity of stone/brick coach houses and the need to retain and conserve all of the surviving examples, particularly in relation to their form, profile and building line as well as any original features remaining. Proposals to demolish such buildings will generally not be accepted.

c) Development will generally be confined to two-storey buildings; three-storey in certain circumstances, in line with national policy to promote increased residential densities in proximity to the city centre.

d) Mews buildings may be permitted in the form of terraces.

e) New buildings should complement the character of both the mews lane and main building with regard to scale, massing, height, building depth, roof treatment and materials. The design of such proposals should represent an innovative architectural response to the site and should be informed by established building lines and plot width. Depending on the context of the location, mews buildings may be required to incorporate gable-ended pitched roofs.

- f) The amalgamation or subdivision of plots on mews lanes will generally not be encouraged. The provision of rear access to the main frontage premises shall be sought where possible.
- g) All parking provision in mews lanes will be in off-street garages, forecourts or courtyards. One off-street car space should be provided for each mews building, subject to conservation and access criteria.
- h) New mews development should not inhibit vehicular access to car parking space at the rear for the benefit of the main frontage premises, where this space exists at present.
- i) Potential mews laneways must have a minimum carriageway of 4.8 m in width (5.5 m where no verges or footpaths are provided). All mews lanes will be considered to be shared surfaces, and footpaths need not necessarily be provided.
- j) Private open space shall be provided.
- k) If the main house is in multiple occupancy, the amount of private open space shall meet both the private open space requirements for multiple dwellings and for mews development.
- l) The distance between the opposing windows of mews dwellings and of the main houses shall be generally a minimum of 22 m.

Settlement Strategy

Dublin city in its entirety lies within the metropolitan area and the RPGs give direction to Dublin city as the 'gateway core' for high-intensity clusters, brownfield development, urban renewal and regeneration. The RPG settlement strategy for the metropolitan area includes a strong policy emphasis on the need to gain maximum benefit from existing assets, such as public transport and social infrastructure, through the continuation of consolidation and increasing densities within the existing built footprint of the city.

5.3. **Architectural Heritage Protection Guidelines for Planning Authorities, Department of Arts, Heritage and the Gaeltacht, October 2011, includes:**

When it is proposed to erect a new building in an ACA, the design of the structure will be of paramount importance.

Where there is an existing mixture of styles, a high standard of contemporary design that respects the character of the area should be encouraged.

Features within the curtilage and attendant grounds of a protected structure can make a significant contribution to the character of that structure. The designed landscape associated with a protected structure was often an intrinsic part of the original design concept and, as such, inseparable from the building.

5.4. **Natural Heritage Designations**

South Dublin Bay SAC and South Dublin Bay and River Tolka SPA are located c 5km from the site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.2. Four third party appeals against the decision to grant permission have been submitted.

6.3. **Michael & Rosemary Lyons**

6.4. A third party appeal has been submitted by Michael & Rosemary Lyons, 9 York Avenue, which includes:

- permission is sought for a substantial mansion; out of character with Edwardian design of adjacent houses.
- Adverse impact on area.
- DP 11.1.5.6 (conservation area policy)

- Curtilage of protected structure and adjacent to refurbished protected coach house.
- 16.10.16 (mews dwellings)
- Overbearing, overlooking, overshadowing - in particular 4,9,10,11,12 York Road and the bungalow.
- Maintaining scale and character of vicinity.
- Views are shown
- Mews developments in Rathgar Place are of a design and scale in keeping with the character of the area.
- Site has never been built on.
- Occupancy – it has the potential to have 4 bedrooms.
- Traffic – difficulties in getting parking. It will cause parking on York Avenue.
- Photographs showing narrowness of laneway and dangerous entry / exit.
- Emergency services can't access.
- The limited car parking proposed would not negate the '07 refusal.
- 120° blind turn and 50° angle entering the link laneway.
- Used by pedestrians, cyclists, small children.
- The placing of a convex mirror on the gatepost will not minimise the risk. It would only work if it jutted out 3m and would then be a hazard.
- Autotrack – in practice reversing into the narrow landway behind 172/173 and turning in that laneway would be extremely difficult and drivers would choose to reverse into Rathgar Place. The manoeuvres required to reverse from Rathgar Place to the site would take such time that queuing on Rathgar Place is inevitable.
- Ownership of lane – there are no official legal documents showing proof of ownership. They have no right to regard this piece of land as being part of their application.
- The inclusion in the application site has enhanced the plot ratio and site coverage.

- Annotated photographs are enclosed.

6.5. **William Gallagher & Catherine Halley**

6.6. A third party appeal has been submitted by William Gallagher & Catherine Halley, 172 Rathgar Road, supported by expert reports, which includes:

- They are concerned that they were not afforded an opportunity to rebut / respond to the information provided by the applicants prior to the final decision and question why clarification of the further information was not requested.
- The proposed development will create a significant safety/traffic hazard –
 - Sightlines are practically non-existent, vehicles will be forced to protrude a considerable way onto Rathgar Place before being able to see up the lane or down the pedestrian alley, the proposed convex mirror will be mostly ineffective, There will be increased conflict between vehicles and pedestrians and cyclists. The route is commonly used by school children accessing Kildare Place, a school in an adjacent area. The development plan standard laneway width is not met. There is insufficient width for safe manoeuvring to and from the proposed car parking space and potential for conflict with the outward opening doors of their coach house. It is likely that the laneway will be used for parking and will not be usable as a turning area, compromising their established right of way. A previous refusal is cited. An expert opinion is attached.
 - They reject the erroneous and misleading correspondence from the applicant's solicitor regarding claimed adverse possession of the laneway and assert that the applicants do not have sufficient legal interest to carry out the works proposed to the laneway.
 - They disagree that the laneway has been used by the applicants on a continual basis. Its use by the applicants is recent, only for the past few months. It has been used irregularly by tradesmen when requiring access to the rear of properties at 172-174. The proposed development would greatly intensify the use.

Re. the autotracking, they cannot understand how the Roads and Traffic Division find it acceptable. It is clear that the autotrack drawings are overly optimistic, and they refer to their expert's report, attached.

- Re. the removal of the existing gates. It is clear from the information provided by the prior residents that the gates replaced a pre-existing, historical, wooden gate which had fallen into disrepair. The third parties do not give permission for the removal of the gates as this is a historical, enclosed laneway. The removal of the gate would pose a significant security hazard to the rear of their property.
- They contrast the proposal with development to the rear of 161 / 162 Rathgar Road.
- The size and scale:
 - It will result in an extremely negative impact on their property.
 - The size and scale is disproportionate and contrasts significantly from the more historic scale and appearance of Rathgar Place and York Avenue.
 - It will have an adverse impact on the setting of a protected structure; in this regard the development plan is cited. The Architectural Heritage Impact Assessment provides insufficient appraisal of the wider context and the visual impact. No shadow analysis is provided. Impact on the main house and coach house is acknowledged in the initial planning assessment. They are disappointed that the very minor modifications were deemed to make the proposal acceptable. The adverse impact in terms of overbearing is still substantially present and the size and scale is practically unchanged. The second conservation officer report is cited in detail.
 - They point out that they have an extant permission to renovate and revert the mews and ancillary courtyard to residential use.
 - The scale (2000 sq ft) is out of keeping with the other mews premises in the area (700-1000 sq ft). The coach house is 58 sq m / 624 sq ft.
 - They provide a report from Mr John O'Connell Grade 1 Conservation Architect regarding the alien nature of the proposed development which does

not relate to or acknowledge the scale, form and material finishes of any of the existing mews in the area.

- No regard has been given to the impact on the adjoining mews building/protected structure.
 - The flat roofed car port directly abuts their protected coach house without their consent. This proposal which also seeks to build onto a pre-existing right of way and remove/reduce the pre-existing form, profile and building line of the coach house, does not conserve, enhance or safeguard the special interest of either protected structure, 172 or 173, and is contrary to the CDP, of which section 16.10.16 and 16.2.2.4 are cited. A more appropriate approach would be to retain / repair and utilise the remaining nib of wall. This is supported by the conservation officer's report.
 - They were held to a high standard in their proposed development.
 - The detail of the method by which the remnant wall will be nibbed such that works will not further damage the protected mews building's exterior façade, mortar or overall structural integrity, is minimal, and no details of protection of the northern elevation from accidental collision with delivery lorries or vibrational damage have been provided.
 - CHC1 is cited.
- The scale contravenes the development plan standards.
 - 16.10.8 is cited
 - The proximity and massing will create overbearing of No 172's rear garden. A visually dominant and overpowering 5.9m blank elevation will immediately abut their patio. It will create unacceptable overshadowing from the unobstructed northern sky.
 - SC17 is cited.
 - First floor windows will directly overlook their rear garden and elevation; the master bedroom, landing and bedroom no. 2 will directly overlook their double height glazed rear extension. Existing planting does not provide a

permanent means of obstructing views. The minor changes made provides little to alleviate their concerns.

- 16.10.2 is cited, the internal layout shows minimal evidence of careful positioning of windows etc.
- 16.10.8 is cited, the narrow application site will be dominated by the proposal's large footprint leaving no apparent gap between either boundary wall. It is out of keeping with any mews properties in the area.
- The 37% site coverage stated includes property not in the exclusive control of the applicants. Excluding the laneway site coverage would exceed the 45% threshold.
- None of the caveats permitting higher site coverage apply.
- Section 11.1.5.3 of the development plan states that subdivision of rear gardens will not be permitted.
- The proposed provision of 1 car space is substandard. The laneway will be used for parking and will not be usable as a turning area, compromising their established right of way. The second conservation officer's report is cited.
- The previous expired permission should not determine the current proposal.
 - The consent originally provided by the previous owner of 172 Rathgar Road is not replicated by the present owners.
- They have significant concerns regarding title and the ability of the applicants to carry out the development.
 - The current planning application includes and is dependent on substantial changes to the access laneway to the rear of No 172-174 which the applicants should not be entitled to undertake without the agreement or consent of the neighbouring properties. Their claim to exclusive use and possessory title is completely rejected. The supposed adverse possession is stated to date from the time when Arthur Lappin and Kathryn Lennon owners of 173 erected gates to the front of the laneway in 1995. A fundamental basis for adverse possession is to exclude all others for the required statutory period. They refer to a statutory declaration, copy supplied, from Arthur

Lappin and Kathryn Lennon stating that they never sought to possess this laneway during their time and that the metal gate was put in with the consent of the other owners, with no claim to exclusive use.

- Re. the freehold interest stated to have been acquired, a caution against first registration has been submitted to the Land Registry to protect the third party's interests, particularly pertaining to their appurtenances/rights of way. A related argument is made regarding time limits.
- A copy of a letter from Ms Neary to the owner of the ground rent (landlord) in connection with the purchase, is also supplied.
- The third parties do not consent to pinning any structure to their coach house or shared garden boundary wall. The suggested part build onto their established right of way is also rejected, and in this regard they cite the legal case *Frescati Estates v Walker* (1975) IR 177 and the Supreme Court Judgement. Board decisions are also cited: PL42.233399, PL06S.244906 and PL05E.236582.

- Documents attached include:

Report by NRB Engineers regarding traffic issues.

Expert opinion of Mr John J O'Connell (Grade 1 Conservation Architect) regarding impact on 172 Rathgar Road and surrounding area.

Statutory declaration from previous owners relating to laneway to rear.

Letter from Property Registration Authority regarding compulsory first registration and associated timelines.

Copy of letter sent by Ms Anne Neary to Mr Anthony Peter Plunkett regarding laneway.

- 6.7. The report by NRB Engineers regarding traffic issues includes: in the subject case the X distance provided is zero and the associated Y distance is also therefore zero. There is no sightline for exiting vehicles and drivers will exit blind to any oncoming vehicular, pedestrian or cyclist traffic. This represents a significant traffic safety hazard. There are no circumstances where zero sightline is appropriate.

In their experience devices such as the convex mirror are normally retro-fitted to historic established accesses in circumstances where there is a substandard access

or a significant accident history. They are not normally used to facilitate new development or to allow the intensification of use of existing lightly trafficked gateways. 4.8m is the absolute minimum width of a shared space based on DMURS. The laneway varies in width from 3.7m to 4.1m; 3.9m at the subject site. The intensification of use has safety implications for existing users and vulnerable road users.

Swept path analysis – it is clear from the drawings that the design vehicle selected is a car only 4.2m long and does not provide an accurate assessment of the minimum swept-path requirements of the proposed access and parking. Various vehicle models of greater length are listed. They have carried out an exercise using a 4.7m long car which they say is a medium sized car, and they state the exercise clearly shows that the site is not safely accessible. Entering requires a blind reverse with restricted intervisibility between the car reversing into the property and member of the public using Rathgar Place. Exiting involves significant shunting and repeated manoeuvring which ordinarily is not allowable for reasons of normal traffic safety. They believe the application should be refused.

6.8. The expert opinion of Mr John J O'Connell (Grade 1 Conservation Architect) regarding impact on 172 Rathgar Road and surrounding area, includes:

at the junction of the side and back lane there are the original gate piers. The gates are of metal and modern date. On the back lane there is an offset between the mews of 172 and the back wall of 173. The lane was terminated with a further pair of gates to 174. The mews to 172 was constructed at later date and this explains why it is in 'the Gothic Revival' style.

The junction of the proposed building and the mews building of 172 are unresolved. It would appear that it is proposed to build up against the face of the shared garden wall, thus diminishing this feature of both protected structures.

The proposed canopy to the development and first floor level is out of keeping with this area of Rathgar and will be unsightly, while obscuring the historical boundary wall.

The conservation officer's concerns are listed.

In his opinion the application should be refused.

6.9. Rathgar Residents Association

6.10. A third party appeal has been submitted by Rathgar Residents Association c/o Philip O'Reilly, which includes:

- This very large house cannot be considered acceptable in a back lane setting.
- It should take guidance and direction from the restored building at 172.
- Overdevelopment.
- Very modern out of character.
- It should be no more than 110 to 120 sq m and larger should not be allowed especially in this case having regards to the restrictions on the width and restricted element of access.
- Proposal to open the currently gated and locked entrance for vehicular entry would result in serious safety hazard and create a blind corner with the small lane way to York Ave. If this back garden never had a back lane coach house as it did not, there was a good reason for it and that was by virtue of excessively restricted access.
- Access roads are too narrow.
- Precedent decisions, where Board Pleanála overturned inappropriate developments, are cited: PI 29S.246972 and PI 29S.247291.
- A copy of the Conservation Officer's report is attached to the grounds.

6.11. Etain Doyle

6.12. A third party appeal has been submitted by Sheridan Woods, architecture, urban design, planning, in consultation with Dermot Nolan, Conservation Architect, on behalf of Etain Doyle, 4 York Avenue, which includes:

- The third party's property is a two storey dwelling on the opposite side of the mews lane with access from York Avenue and pedestrian access from Rathgar Place. The dwelling forms a two storey boundary to part of the proposed access lane and a garden wall to two triangular areas of private open space with two gable windows & door at ground and first floor.

- Their concerns include:
- Title to the site as outlined – The third party has used the lane to maintain her property and for the construction of an extension adjoining the lane. The other users are noted. The 1882 OS map shows the spur laneway as accessed by gates. A significant section of the proposed development is to be built upon the area which, though claimed by the applicants, is disputed by several neighbours as being in common or indeterminate ownership over which the applicants have a right of way. These lie beyond the remaining piece of wall forming part of the east boundary of the garden of No. 173. Permission should be refused.
- Overdevelopment of the site and impact on amenity of adjoining residential development –
 - The quantitative standards give a good indication of the bulk and mass of a building. The site area, excluding the laneway, is c281sqm. The ground cover is 150 sq m and site coverage is 53% which exceeds the maximum 45% permissible on Z2 lands. The 2 storey structure is approx. 6m from the boundary of the third party's garden and 7.4m from the gable of her dwelling. It will present an overbearing impact when viewed from her dwelling, and also the limited open space to the north, and seriously detract from the residential amenity of her property. The first floor window and door directly beneath are important to the third party's house providing much-needed light to the principal bedroom and main living room and an important aspect to the west directly towards the proposed new dwelling and in this regard they refer to three dimensional views provided. They request that due consideration be given to the impact on the third party's property.
 - Overlooking – bedroom 3 is positioned to the front of the proposed mews, with a window to the gable, just 8.015m from the third party's first floor bedroom window which will create oblique overlooking. The relationship can be seen in the three-dimensional views provided.
 - Noise – the vehicular access immediately adjoins the third party's amenity space, separated by a low wall. Accessing and egressing the parking space will generate significant noise and disturbance to the living room and bedroom.

- The amenity of 'The Bungalow', York Avenue, where the proposed development will generate a sense of overlooking and overbearing impact, is included as a concern.
- The amenity of the proposed dwelling will be affected by the overhang which affects the study area window, the configuration of first floor windows, the proximity to the north east boundary, which will restrict access for maintenance etc, and the amenity of the windows on this elevation.
- Discordant pattern of development – Development plan provisions at 11.1.5.6, 16.10.16, 16.2.2.2 and 16.10.10 are cited. The form, proportion and lack of articulation of solid to void in the front façade, presents an unattractive and incongruous elevation to Rathgar Place and particularly to York Avenue as seen from the rear of the houses. It will have an enclosing effect on the Avenue. It is inconsistent with the pattern of mews development on the lane and with the pattern of development in the area.
- Impact on protected structures – A Conservation Assessment prepared by Dermot Nolan Conservation Architect accompanies the appeal and concludes that the house is too big for the site resulting in serious adverse impact on the protected structures in the vicinity, particularly the coach house which is regarded as being of national importance. The development is contrary to development plan provisions at 11.1.5.3.
- Traffic hazard – minimum lane width per 16.10.16 is 4.8m. Auto tracking highlights the difficulty of accessing and egressing the proposed parking space. Excessive turning movements will impact on the third party, and will be exacerbated by the gravel surface.
- Precedence – there are minor changes in the current proposal when compared to the expired permission: the site area which includes the laneway, and an increased floor area. A brick finish is now proposed in lieu of render, which will increase its overbearing impact and the discordance with the coach house and other structures. The proposal cannot rely on an expired permission.
- No objection in principle to a development of a scale and form appropriate to the space available.

6.13. The Conservation Assessment by Dermot Nolan Conservation Architect, includes:

- A summary of the second conservation officer's report, including that the north elevation is regarded as a substantial negative impact in terms of setting, as the rear gardens of adjoining properties and the proposed footprint should respond to the depth of the adjoining garage; i.e. wrong shape, too big; also the CO's opinion that it is contrary to the objectives of the City Development Plan.
- The Dublin City Development Plan states that stone/brick coach houses on mews laneways are of national importance. This is an unusual, rare and very fine example and deserving the highest degree of protection. Concerns include the removal of wall, fixing of the structure of the entrance canopy to the house, impact of vehicle turning on adjacent structures, including the third party's stone walling.
- A 3D model – a SketchUp model is provided to illustrate the impact on surrounding areas.
- Permission should be refused.

6.14. **Applicant Response**

6.15. Kieran O'Malley & Co Ltd Town Planning Consultants, in conjunction with CODA Architects and Trafficwise Traffic and Transportation Solutions, have responded on behalf of the first party to the grounds of appeal, including:

- The development proposed in '08 was supported by the current owners of 4 York Avenue and 174 Rathgar Road. This permission was in place when planning permission to renovate the coach house was sought. The 2016 application was withdrawn because the owner of 174 did not wish to proceed with the arrangement previously agreed: to replace a section of garden party wall.
- The claim of ownership of the laneway is restated.
- Most plots along Rathgar Road have been subdivided; developments in the vicinity are listed.
- Letters of support are attached.
- The character of the lane south of Rathgar Place is very different, as the first 8 properties comprise two storey stone coach houses. The plots of 162 to 171 are

considerably narrower than to the north of Rathgar Place, being approx. 7.5m in width.

- Design, Scale, Mass and Bulk – complies with relevant standards. The majority of the accommodation, 120m² of the 192m², is at ground level reducing the scale mass and bulk. The southern elevation is set back at first floor from No 172. The plot ratio is 0.48 and site coverage 37%. If the gated laneway is deducted the plot ratio is 0.63 and site coverage 49%, still in indicative ranges.
- At 12m wide it is roughly twice the typical width as well as substantially longer. A typical mews house would have a greater impact on a typical mews site. Most properties on nearby York Avenue have large two storey extensions and are on smaller sites than the subject site, (156sq m in comparison to 399 sq m).
- Relationship with 172/173 Rathgar Road – overlooking is avoided through good design. Distances of 25m for the proposed ground floor from 173 Rathgar Road, 30m from the extension to 172 Rathgar Road and 35m from rear bedroom windows, are achieved.
- The first floor set back from the boundary avoids overbearing impact. A first floor projection, to accommodate an en-suite, breaks up the façade, minimising its potential visual impact.
- Opaque glazing in the first floor landing window prevents overlooking. A first floor window in bedroom 3, facing No. 172, incorporates a deep reveal and is positioned at the east end of the elevation to avoid overlooking; this is a similar arrangement to the single storey extension to No. 172, where an opaque glazed window in the extension side wall looks north into the garden of No. 173.
- The first floor set back from the boundary at No. 174 avoids potential overshadowing and overbearing impacts. There is no overlooking of No. 174.
- 4 York Ave. - no windows face southeast towards this property, no overlooking occurs.
- No 4 York Ave has an oblique relationship with the subject site which prevents any overshadowing or overbearing impacts.
- Protected structures –

- There is no conflict with the coach house. The previous permission 5074/08 was in place when the application to restore the coach house was made.
- The design leaves an entrance courtyard adjacent to the coach house so that no abutting or underpinning will be required.
- The car port will be supported by independent posts and does not directly abut the coach house.
- The side of the coach house is a party wall.
- The first parties supported the renovation of No. 172 and the refurbishment of the coach house, on the understanding that the owners of same would support their mews development. They request that the Board regard the assertions of alleged adverse impact in this light.
- Access / Traffic
 - Established Access - There is established use of the lane by vehicles of all sizes. Construction vehicles in particular, are referred to.
 - Carriageway – permission for houses at rear garden sites has been granted on the lane.
 - Safe Manoeuvring of Vehicles – drawings P-02 and p-08 show that vehicles can gain access and egress in forward gear.
 - Use – use of the lane by the adjoining property will be restricted to the mews dwelling. The coach house is converted to habitable use and the only access point wide enough for a car leads into the living accommodation.
 - Traffic Hazard – there is an existing vehicular access at this location to the rear of No. 173. Rathgar Place serves many residential properties and the development cannot reasonably be considered to create any additional safety hazard. There has never been an accident or complaint re. use of the laneway. A convex mirror mounted on the east gate pier will improve visibility at the access and reduce risk. There is no traffic grounds for refusing permission.
- Car parking –
 - 1 space accords with the maximum standard of 1.5 spaces.

- Many houses at York Ave and Rathgar Place have no on-site car parking.
- Re. item 3 of the further information – Dublin City Council’s road engineers are satisfied with the parking provisions. The suggested modification at the entrance does not affect the Autotrack layouts.
- No weight should be given to the claims regarding emergency vehicles, as the site layout incorporates a parking space.
- Precedent - The site planning history is relevant because it includes a recent grant of permission for a substantially similar house. The only design changes made were in response to objections to the previous proposal, as explained in the cover letter. Improvements include reduced first floor accommodation and setbacks. There are no new arguments or grounds to support a refusal.
- 3077/17 at application stage - The progress of the planning application is referred to. Whereas the original Conservation Officer’s report expressed no objection, a further report from the Conservation Officer recommended a clarification of further information. This report, which is cited extensively in the appeals, is exhibited in full in the planning officer’s report. It is clear from the assessment that the planning officer has carefully considered the Conservation Officer’s report but disagrees with her colleague.

6.16. Responses to appeals –

6.17. Response to the William Gallagher & Catherine Halley appeal includes:

- A report by Trafficwise is submitted in response to NRB Consulting Engineers submission.
- Size and scale – refers to report by CODA Architects.
- Contravenes Development Plan – this residential mews lane is subject to 16.10.16 of the Plan. Response from CODA Architects refers.
- Should not be pre-determined – it was determined on its merits. The first party does not require any consent in respect of any of the works.
- Ability to carry out the development – various legal matters have been raised. Any further queries regarding title are a legal matter for the parties concerned. Mr Gallagher has inserted the official land registry map attached to his folio in

Figure 1.7. He added the yellow shading himself, which might give the impression that the right of way is registered in the Property Registration Authority. There is no right of way registered on the land registry map and that folio. He is claiming a right of way over a small strip of land to the north of the coach house which leads directly into the rear of 173. The response provides a drawing showing the extent of the area referred to.

- The first parties believe the objection, as regards title to the laneway and interference to the right of way, relates to the location of the car port canopy as it marginally overhangs this strip. While the first parties do not accept the position regarding title or extent of right of way they would, if they had known the issue, have had the opportunity to consider amending the proposed development. They now propose, without prejudice, that the Board consider a revised submission shown on drawing P-01-07 and P-10, Rev, ABP.

6.18. Response to Michael & Rosemary Lyons, 9 York Avenue, appeal includes:

- Scale, Bulk and Massing – appellant’s site is on the opposite side of York Ave, 30 m distant, with the garden of No 4 and the bungalow intervening. It is not a substantial mansion. It is a contemporary infill on an established residential lane.
- Overbearing, overlooking overshadowing – first party disagrees that there are such impacts.

6.19. Response to Etain Doyle, 4 York Avenue, appeal includes:

- Title – response as previous.
- Over development and impact on residential amenity –

Site area	Plot Ratio	Site Coverage
399 sq m (red line)	$192/399 = 0.48$	$151/399 = 37\%$
308 sq m (red line)	$192/305 = 0.63$	$151/305 = 49\%$

- The appeal notes the separation distance of the proposed house from the boundary (6m) and the gable (7.4m) at 4 York Avenue, but fails to mention that the two storey extension at 4 York Avenue is practically built on the boundary and

all the separation is provided by others. 4 York Avenue is at an oblique angle which ameliorates any potential negative impact due to proximity.

- Re. the conservation report prepared on Ms Doyle's behalf. The original stone boundary wall between her house and the laneway was demolished when the extension was being built, and the extension was built on the midpoint of the wall.
- A copy letter showing Ms Doyle's support for the previous dwelling permitted on the subject site is provided.
- There is no overlooking of the first floor bedroom window at 4 York Avenue from bedroom No. 3, see DRG No. PP-03: angle of window and projecting reveal.
- Her concern about the amenity of The Bungalow is not shared by the owner of that property. Removal of the balcony at FI stage fully respects the amenity of this property 172, 173 and 174 Rathgar Road and York Avenue.
- The effect is not to diminish amenity of the proposed dwelling.
- No baseline noise survey is provided and no analysis of predicted increase in noise therefore no weight should be given to the argument re noise.
- Discordant pattern of development – the planning authority recognised the mixed use character of the environs of the site.
- CODA Architects have responded to the Conservation Architects report.

6.20. Response to Rathgar Residents Association appeal includes:

- They reiterate that the 2016 application was withdrawn because consent previously given for works to the party wall (3074/08) was now declined.
- The emphasis on opinion of area residents does not acknowledge the considerable support from local residents.
- Re the cases referred to:
 - The Board's refusal (Reg Ref 2834/16) of a 238sqm house on a 0.0278ha site at the rear of 16A Kenilworth Road refers to a larger house on a smaller site. Permission (Reg Ref 2353/17) was subsequently granted for a 190 sqm two storey house; copy of decision attached.
 - Reg Ref No 3333/16 at 3 Leinster Road Rathmines, is of no relevance.

6.21. The CODA appeal conservation statement includes:

- It takes issue with the second conservation officer's report, including that there never was a coach house north of No. 172.
- Building Form - The building form is for a modern house located in a new house setting. It is not intended to replicate a coach house form which never occurred at this site.

The proposed townhouse is designed to respond to a large number of design criteria, originating in the early 21st century, and in the environment alongside: the Edwardian housing of York Avenue (early 20th century) and the Georgian housing to Rathgar Road (early 19th century).

- Materials – brick façades are the prevailing material in the area. As the façade is not a liner terraced typology, but is free standing, they felt brick was appropriate to the sides and rear. The first party is open to masonry should the Board consider it a more appropriate finish.
- Fenestration – the fenestration took reference from the coach house.
- Roof – the aim was to provide a low pitched roof behind a low parapet wall, similar to the original Victorian houses.
- Elevation – the design incorporates a number of setbacks and allowances to the boundary of 174. Despite the design norm being that abutting sites such as these are typically designed to receive daylighting from front, rear and roof, with only peripheral reliance on receiving light from boundaries. The proposal makes allowance for the existing bungalow and future redevelopment of 174. The north elevation is finished in white render to reflect light into No 174.
- Boundaries – in reading the CO's comments regarding the original boundary and other issues they submit a revised ground floor layout and elevations: DRG No 1610=P02-Rev-ABP, pointing out the changes.
- Landscaping – there is no historic landscaping scheme in the architectural heritage sense. Most mature planting already exists and will be retained in the rear garden of No 173. It is planned that a patio would be paved and the garden set out with 3 no. *Betula Jacqmontii*, small trees suitable for an urban garden, and small shrubs and plants including hydrangea, lavender and calla lilly.

- Responses

Responses to the extracts from the architectural heritage guidelines are made.

Responses to the appeals are made.

- Responses to the conservation commentary by John O'Connell are made, including:

The design solution has enabled space to be created between the proposed house and the coach house adjacent to avoid a jarring connection. As it is recognised that the coach house itself is an addition to the original streetscape, the neighbourhood should be seen as an evolving urban scene. There is no linear coach house plan to revert to and the roof profile of no 172's coachhouse made it difficult to abut to.

- Responses to the conservation commentary by Dermot Nolan are made, including:

The 3D model can hardly be relied on as the omission of planting and boundary walls distorts the impact. In addition the coach house is incorrectly shown, with the eaves height shown at least 750mm lower than in reality, the planning file drawings for No 172 had this error amongst others. The relationship of the eaves of the coach house and the ground floor parapet height to front and rear is incorrect. The gardens of Nos 172 and 173 are wrongly depicted with no vegetation.

- Responses to the appeal by Rathgar Residents Association are made, including:

Responses to the precedent Board Decision cited: 248508. This is a grant of permission for a similar sized house on a small mews lane; a fully two storey development and arguably a greater first floor area which would be of greater impact.

6.22. Trafficwise response to NRB Engineers letter, which includes:

- The potential traffic generation and frequency of use of the existing access is not likely to alter materially from current use. Sightlines in Rathgar Place are restricted, so too is forward visibility at the right-angled bend. Where sightlines are reduced below guidelines or recommendation, it is acknowledged that drivers react to the lack of visibility, reducing their speed and proceeding with increased caution and care. This can effect an increase in safety or prove as safe as a scenario with greater lines

of sight. Drivers have more time to perceive potential risks and this permits them to stop before a hazard, even though they may see it when closer to them.

- The variables that contribute to potential increases or improvements safety must be considered. There is no change in the potential use. The applicant proposes the erection of a convex mirror to improve visibility for existing users. This measure constitutes a material improvement in safety. There is no record of significant accident history.
- With reference to the use by cyclists and pedestrians, the appeal fails to consider personal safety and security. There is no passive surveillance in Rathgar Place. They question the claim that it is used by primary school children.
- The vehicle swept path analysis submitted in response to the request for further information was undertaken using the proprietary software Auto Track. The design vehicle uses specified steering parameters aimed at standard assessment.
- The vehicle which currently uses the parking is a 7-seater Opel Zafira, 4.658m in length. The appeal aims to show that a 4.7m long car would have difficulty in manoeuvring, which difficulty the family does not encounter.

6.23. Revised drawings provided for the Board's consideration show the canopy overhang and entrance gates relocated back to the line of the old masonry wall. The wall is to be repaired and partially re-instated.

6.24. **Planning Authority Response**

6.25. The planning authority have responded to the grounds of appeal, referring the Board to the planner's report.

6.26. **Further Responses**

6.27. Third party responses to the other third party appeals.

6.28. Rathgar Residents Association have responded to the other third party appeals, including:

- Referring to third party appeals and generally supporting their contents.

- 6.29. William Gallagher & Catherine Halley have responded to the other third party appeals, including:
- Referring to the commonality of the issues raised and generally supporting their contents.
- 6.30. Third party responses to the first party response to the third party appeals.
- 6.31. Michael & Rosemary Lyons, 9 York Avenue have responded to the first party response to the third party appeals, including:
- Taking issue with the responses and supplying further photographs to illustrate points made.
- 6.32. Rathgar Residents Association have responded to the first party response to the third party appeals, including:
- Taking issue with the responses.
 - With reference to materials to be used they comment that on service lanes the majority of coach houses were built of stone, and they recommend the use of natural stone and traditional lime based render.
 - Re. traffic movement the point is made that the convex mirror in the position proposed will only indicate traffic movement between the mirror and Rathgar Road. It will do nothing for pedestrian and cycle traffic coming from York Avenue.
- 6.33. Sheridan Woods, architecture, urban design, planning, in consultation with Dermot Nolan, Conservation Architect, on behalf of Etain Doyle, 4 York Avenue, have responded to the first party response to the third party appeals, which includes:
- Taking issue with the responses.
 - An adjusted 3D model is provided by Mr Nolan and his response includes rebuttal evidence in relation to proportions used in his model and reference to inaccuracies in the application drawings with reference to the coach house.
- 6.34. William Gallagher & Catherine Halley, 172 Rathgar Road, supported by expert reports, have responded to the first party response to the third party appeals, including:

- Taking issue with the responses.
- Referencing a further Board decision (211813), a refusal regarding the use of a convex mirror.
- Including a letter from observers to the planning application: Nigel and Claire Clerkin regarding their understanding of commitments made to them in relation to pedestrian safety measures to be carried out, which conflict with the details submitted.

A further Report by NRB Engineers regarding traffic issues.

Expert opinion of Mr John J O'Connell (Grade 1 Conservation Architect) regarding impact on 172 Rathgar Road and surrounding area.

- The NRB Engineer's further report includes, rebuttal in relation to the responses; and, with reference to accident history, a review of the on-line (NRA) database of public road accidents within which there is recorded a fatal accident adjacent to the junction of Rathgar Place and Rathgar Road (pedestrian / vehicle). No details are provided.
- Mr John J O'Connell's further report includes, rebuttal in relation to the responses; and further that the design has not addressed the aims of the development plan re: scale, massing, building depth, roof treatment and materials.

7.0 **Assessment**

7.1. There issues which arise in relation to this appeal are: appropriate assessment, protected structures, residential conservation area, scale of development, residential amenity, traffic safety and legal issues and the following assessment is dealt with under those headings.

7.2. **Appropriate Assessment**

7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

7.3. Impact on the Protected Structures

The area is zoned Z2 'to protect and or improve the amenities of residential conservation areas'. The host building and those adjoining are protected structures.

Subdivision of plot

The development plan points out that the curtilage of a Protected Structure is often an essential part of the structure's special interest. In certain circumstances, the curtilage may comprise a clearly defined garden or grounds, which may have been laid out to complement its design or function. This reflects the guidance given in the Architectural Heritage Protection Guidelines for Planning Authorities. The second Conservation Officer's report refers to the historic setting and amenity of the protected structure.

The first matter to be considered by the Board therefore is whether it is acceptable to allow the subdivision of the historic plot associated with the protected structure. The plot is largely intact, unlike others in the area, and this is a feature of interest. The retention of the plot in its present configuration versus allowing its subdivision, needs to be considered in the context of the desirability of gaining 'maximum benefit from existing assets, such as public transport and social infrastructure, through the continuation of consolidation and increasing densities within the existing built footprint of the city' which is part of the settlement strategy for the City. Other issues to be taken into consideration are the large plot size and the pattern of development in the area.

On balance, I consider that the subdivision of the plot, for the purpose of providing an additional dwelling, is acceptable in this case.

Built Fabric and Morphology of the Laneway.

Concern has been expressed in the appeals surrounding the impact on protected structures and particularly impact on the coach house. Concern arises in relation to damage to the fabric of the coach house and historic walls. Concern has also been expressed in relation to the impact on the layout of the existing laneway which is part of the built fabric of the area.

The proposed building will be located immediately adjoining, but not attached to the historic walls forming the boundary with No. 172 and the laneway, and will be set back from the historic walls forming the boundary with No. 174. No building is proposed adjoining the coach house which will have adjoining it the front courtyard i.e. parking space and access. A revised proposal setting back the development, such that it does not project into the historic laneway, has been received by the Board and is dealt with under a separate heading. Impact on the stub wall attached to the coach house is dealt with under a separate heading.

The increased use of the laneway is of concern to the third party owners of the coach house, with regard to the doors of the coach house, which are outward opening.

In my opinion there is no reason to believe that there should be any conflict between access to the proposed development and the outward opening doors of the coach house assuming the necessary mutual respect and courtesy which is required for shared use of any laneway.

I am satisfied that the proposed development can be carried out without impact on the historic built fabric or the morphology of the laneway.

Visual Impact on the Coach House & the Design and Finish

The visual impact on the coach house and the design and finish are of concern to appellants. It is stated that the form, proportion and lack of articulation of solid to void in the front façade is said to present an unattractive and incongruous elevation to Rathgar Place and particularly to York Avenue as seen from the rear of the houses. Many of the appellants refer to the second conservation officer's report which raises concerns in relation to building form, materials, fenestration, and the roof elevation. The first party response includes that the design is not intended to replicate a coach house form and that there was never a coach house on this site. It is a modern house located in a new house setting designed to respond to a large number of design criteria; originating in the early 21st century and in the environment alongside the Edwardian housing of York Avenue (early 20th century) and the Georgian housing to Rathgar Road (early 19th century). They state that brick façades are the prevailing material in the area; as the façade is not a liner terraced typology but is

free standing they felt that brick was appropriate to the sides and rear. The first party is open to masonry should the Board consider it a more appropriate finish. They state that the fenestration took reference from the coach house; for the roof, the aim was to provide a low pitched roof behind a low parapet wall, similar to the original Victorian houses. The design incorporates a number of setbacks and allowances to the boundary of 174. Despite the design norm being that abutting sites such as these are typically designed to receive daylighting from front rear and roof, with only peripheral reliance on receiving light from boundaries. The proposal makes allowance for the existing bungalow and future redevelopment of 174. The north elevation is finished in white render to reflect light into No 174.

The Board will note the second conservation officer's report which states that the proposed new build has the role of negotiating a transition between a mid 20th century bungalow and a stone gable ended 18th century coach house; and that it is necessary to be satisfied that the proposed design achieves this successfully and that the proposed development does not further undermine the context of the historic terrace and the adjoining ancillary structures.

In my opinion the visual impact on the coach house has been greatly ameliorated by the revised design which was submitted in response to a request for further information, a which set back the proposed development at first floor level so that it now extends at the nearest point to 1.6m from the southern boundary.

I consider the design of the dwelling to be an acceptable response to its context. Given the context I do not consider that the use of masonry as a finish should be a requirement.

In relation to the fenestration, which is stated to have taken reference from the coach house. I would draw the Board's attention to the three glazed panels in the centre of the bedroom window facing west, which taken together are 1.7m wide, a similar width to the 1.7m wide west facing ground floor window in the coach house adjoining. The intention with regard to the panels to either side of the clear glazing is not explained; these panels will extend the window width to 3m. The panel division shown in the elevation drawing is not reflected on the plan. In my opinion the fenestration would have a better relationship with the fenestration of the coach house, if the window size was reduced to a width of 1.7m and this would also reduce the impact on No 172 from perceived overlooking, and would be appropriate to the

size of the proposed bedroom; and I advise that this should be a requirement, should the Board be minded to grant permission.

I consider that the use of a low pitched roof behind a low parapet wall, is acceptable and assists in reducing the bulk of the building.

As noted earlier in this report the building at first floor level no longer extends to the southern boundary arising from the revised design, in response to the further information request. At ground floor the building still extends to the southern boundary and the fireplace proposed in the southern wall of the livingroom remains part of the revised proposal. The result is that the chimney is required to cross above the ground floor roof to join the first floor building, and is an awkward diagonal feature above roof level. This feature can be seen on the elevation drawings. It has not been raised in the grounds of appeal. It would not be visible from Rathgar Lane and would be visible only at an oblique angle from York Road. On balance I consider that this is acceptable, but should the Board require it, the omission of or relocation of the fireplace and chimney would be amenable to condition.

Entrance and Car Port

The third party owners of the coach house state that the flat roofed car port directly abuts their protected coach house without their consent.

The first parties in response state the car port will be supported by independent posts, and that the development does not directly abut the coach house.

Their submission to the Board dated 11th December 2017 includes drawings nos. P-1 to P-7 and P-10 showing how they now intend to stop their proposed development at the original boundary with the laneway.

This will retain the integrity of the plot and, should the Board be minded to grant permission adherence to this boundary should be a requirement.

In relation to the entrance gateway and the treatment of the laneway boundary which abuts the coach house, Mr O'Connell, the conservation architect on behalf of the third party owners of the coach house states that the proposed canopy to the development is out of keeping with this area of Rathgar and will be unsightly, while obscuring the historical boundary wall. I agree with Mr O'Connell, in relation to its impact on the historical boundary wall and the coach house which it will adjoin. In my

opinion the development can be completed without this feature, which detracts from the coach house and the boundary wall. Therefore I consider that the proposed canopy should be omitted.

The existing stub wall referred to in the drawings and in other documents is part of the lower portion of the boundary wall with the laneway which appears to have been altered by removal of a large part of the wall at some stage, probably recently. It is the intention to tidy up this stub wall by cutting it back further. In my opinion this wall is important because it is the historical boundary and its continued presence reflects the morphology of the laneway and the layout of the area. Its attachment to and setback from the front building line of the coach house is also of interest. Should the Board be minded to grant permission I advise that the stub wall should be retained to its current maximum extent and restored to its full height. Access to the site would not be unduly restricted by the restoration of this extent of wall, which would also protect the setting and structure of the adjoining coach house.

7.4. Residential Conservation Area

The site is located in a residential conservation area. The protection afforded by the protected structure status of this site and those adjoining is supported by the residential conservation area designation. The proposed development will not be visible from Rathgar Road and will have very little visibility from the public areas in Rathgar Place. The proposed development will be visible from York Road where it will be partly obscured by the detached garage at the end of the lane and the boundary wall and shrubs in the garden of no 4; and where it will be viewed in the context of the dwellings on York Road, the coach house, the flat roofed garage, the high chimney of the bungalow and the bungalow itself. In my opinion the proposed development will not detract from the residential conservation area and this should not be a reason to refuse permission.

7.5. Scale of Development

The scale of the development has been raised as a concern. Appellants refer to plot ratio and site coverage as being exceeded and put forward the argument that the site area shown in the application details, which includes the contested area of the laneway, yields erroneous results, in relation to the calculation of these indicators.

In response to the grounds of appeal the first party has submitted calculations of plot ratio and site coverage for the site as originally outlined, which includes the laneway, and the site excluding the laneway. In relation to the latter, the plot ratio is 0.63 and site coverage 49%. Third parties point out that site coverage for the Z2 zone is 45% and use this as evidence that the proposal represents overdevelopment.

The Z2 outer city zone has an indicative plot ratio of 0.5-2.0 and an indicative site coverage of 45%. It should be noted that these are both indicative standards. In the present case the plot ratio is close to the minimum of the recommended range. In relation to the exceedance of the indicative site coverage as stated in the City Development Plan, site coverage is a control for the purpose of preventing the adverse effects of overdevelopment. In the present case the site coverage reflects the attempt to avoid adverse effects on adjoining properties, in particular, impact on the coach house. In its placement of the majority of the development at ground rather than first floor level, it provides for setback from the common boundaries at first floor level and for less visibility; without any adverse impact on adjoining properties, and is not reflective of overdevelopment.

Third party appeals refer to the scale in relation to typical mews dwellings: that the floor area at 192m² greatly exceeds the 110m² to 120m² normally associated with mews dwellings, and is large relative to the adjoining coach house of 58m². In response the first party states that the plot width at 12m is considerably wider than average plots such as those to the north along Rathgar Place which are approximately 7.5m in width, and therefore that the site can accommodate a greater floor area. In my opinion the floor area is not excessive for the site size.

7.6. Residential Amenity

Overbearing

Third party appeals refer to an overbearing relationship with adjacent property. It should be noted that no appeal has been submitted from the owner of the adjacent single storey dwelling. The third party owners of the coach house at No 172 state that the proximity and massing will create overbearing impact on No 172's rear garden, with a visually dominant and overpowering 5.9m blank elevation. The response refers to the set back from the boundary and that the en-suite breaks up the façade, minimising its potential visual impact.

The third party appellant at No 4 York Avenue considers that it will present an overbearing impact when viewed from her dwelling. The first party in response notes the separation distance of the proposed house from the boundary (6m) and the gable (7.4m) at 4 York Avenue, and that that the two storey extension at 4 York Avenue is built on the boundary so that all the separation is provided by others, and further that 4 York Avenue is at an oblique angle which ameliorates any potential negative impact due to proximity.

In my opinion the separation distances and relative scale of the development in relation to all adjoining properties ensures that no overbearing impact is created.

Overlooking

Overlooking has been raised as a concern in relation to the residential properties at No 4 York Road and No172 Rathgar Road.

A projecting steel reveal is proposed extending outwards from the wall around the window to bedroom 3 to ensure that there is no overlooking of No 4 York Road from this window.

In relation to No172 Rathgar Road it is pointed out that the distances of windows to opposing habitable areas exceeds the minimum requirements. The orientation of windows is designed to avoid direct overlooking of adjoining properties.

I am satisfied that there will be no undue overlooking of No 4 York Road and that the distances between opposing windows and the adjoining residential properties, including the host dwelling, exceeds the minimum requirements.

The Board's attention is drawn to an earlier reference to the width of the first floor west facing bedroom window, (under the sub-heading Impact on the Coach House and Design and Finish) and the recommendation that this window be reduced in width. This would achieve a better balance in the façade, a better relationship with the coach house, and would ameliorate perceived overlooking.

Daylight

Loss of daylight has been expressed as a concern. In relation to No 4 York Ave the first floor window and door directly beneath are stated to be important to the third party's house providing much-needed light to the principal bedroom and main living

room and an important aspect to the west directly towards the proposed new dwelling and reference is made to three dimensional views, which are provided. No evidence of loss of daylight has been given and I am satisfied that there will be no significant loss of light.

Noise

Noise is of concern to the owner of No 4 York Ave as the vehicular access immediately adjoins the third party's amenity space at No 4 York Ave, from which it is separated by a low wall and the third party considers that accessing and egressing the parking space will generate significant noise and disturbance to the living room and bedroom.

The first party has responded that no baseline noise survey is provided and no analysis of predicted increase in noise therefore no weight should be given to the argument re noise.

The wall in question is quite a high masonry wall and I am satisfied that there will be no significant noise arising from the proposed development which could not be generated from use of the existing entrance.

In my opinion the proposed development will not unduly detract from the residential amenities of the area and residential amenity should not be a reason to refuse permission.

7.7. Traffic Safety

Concern has been expressed in the appeals about the traffic safety implications of the proposed development. In putting forward these concerns for consideration one third party has provided a report from consulting engineers. The first party's response has attached a supporting report from a traffic consultancy.

It is acknowledged by all parties that the laneway is narrower than the minimum width required for mews development as set out in the development plan. It is also acknowledged by all parties that sightlines, at the junction of the spur laneway with the laneway known as Rathgar Place, are deficient.

The implications of these deficiencies are contested. The third parties consider the deficiencies constitute a traffic hazard and point to the use of the laneway by

vulnerable pedestrians. The first party argues that deficient sightlines can lead to an increase in safety or can prove as safe as a scenario with greater lines of sight, since drivers have more time to perceive potential risks and this permits them to stop before a hazard, even though they may see it when closer to them. They also point to the variables that contribute to potential improvements in safety: there is no change in the potential use; the applicant proposes the erection of a convex mirror to improve visibility for existing users; and there is no record of significant accident history.

Autotrack analysis was provided with the application and as a response to a further information request and accepted by Dublin City Council's Roads & Traffic Planning Division. Its reliability has been contested in a third party appeal and further analysis has been submitted in response, by the first party's consulting engineers.

The Roads & Traffic Planning Division accepted that the principle of vehicular access was established in the '08 permission and that the existing house at 173 Rathgar Road has vehicular access to the rear which is in regular use. They also accepted the auto-tracking drawings and following the submission of revisions illustrating an auto track movement into the property, found these to be acceptable.

The initial report of the Roads & Traffic Planning Division stated that consideration should be given to the removal of the existing gate from Rathgar Place to facilitate ease of access to the lane and negate against queuing on Rathgar Place, and the suggestion was included in a request for further information. This was accepted by the first party who stated in response 'in the event that you feel there is too great a objection from the adjoining owners, a compromise would be that you could condition for us to automate the black gates and therefore enable them to open on demand as you approach.'

The subsequent Roads & Traffic Planning Division report states that the applicant has confirmed that they have no objection to the removal of the gates on the basis of no objection from the adjoining landowners or the provision of automated gates in place of the existing gates and recommends a condition, which is attached to the decision as condition 7 (b).

The existing gates to the property from Rathgar Place shall be removed or replaced by automated gates to facilitate ease of access to the property. Details

of same shall be submitted to the Environment and Transportation for written agreement prior to the commencement of development.

Although the initial roads report states that the removal of the gates is desirable, they do not state it is essential.

While removal of the gates might be desirable from the point of view of ease of access, the third party objectors with shared access to the laneway state that the removal of the gates would pose a security threat to their property. They point out that there have always been gates at this location and that they do not give consent for their removal.

I agree that the gates provide security and that it would be unreasonable and potentially unenforceable to require their removal.

I note that there is an existing garage serving as access to The Bungalow and there is access to the Coach House and to the rear of No 172, and rear access to No 173 and that some of these accesses are now in regular use although the google earth view I consulted showed grass growing on the laneway, indicating disuse at that time. I acknowledge that the proposed development will increase the movements on Rathgar Place and on this spur laneway. However, in my opinion the additional movements associated with the proposed development can be accommodated on the laneway without requiring the removal of the gates or their automation, each of which might prove equally unenforceable.

Having regard to the potential conflict which could arise in securing the removal of the gates or their automation, and the fact that it is desirable rather than essential, I do not recommend the attachment of such a condition. The provision of automatic gates would appear to offer a solution to ease access without compromising security but that is a matter best left to the parties to negotiate.

I am satisfied that access to the proposed development, in the context of the existing use of the laneway for rear access to dwellings and to other mews developments including the coach house when residential use of the building commences, will not cause traffic hazard and that traffic hazard should not be a reason to refuse permission.

7.8. Legal Issues

Reference has been made to a legal dispute concerning ownership of the spur laneway serving the site. I am satisfied that the necessary right of way to facilitate access to the subject development is enjoyed by the property.

Issues regarding ownership of the laneway are outside the Board's remit.

8.0 Recommendation

- 8.1. In the light of the above assessment I recommend that planning permission be granted in accordance with the following conditions for the following reasons and considerations.

9.0 Reasons and Considerations

It is considered that the proposed development, would support the achievement of an increase in density within the existing built footprint of the city and thereby increase the use and benefit from existing assets, such as public transport and social infrastructure which is an aim of the settlement strategy of the Dublin City Development Plan 2016-2022; would not impact on the special interest of the protected structures or negatively impact on the residential conservation area; would not impact unduly on the residential amenities of the area or constitute a traffic hazard; and would accordingly be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with

the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 15th day of September 2017 and by the further plans and particulars received by An Bord Pleanála on the 11th day of December, 2017 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The developer shall pay to the planning authority a financial contribution of €11,510 (eleven thousand five hundred and ten euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

3. Prior to the commencement of development details of the treatment of the

stub of wall and the gate to be erected in the line of the former wall shall be submitted to and agreed in writing by the planning authority. These details shall include retention of the wall to its current maximum northwards extent from the coach house and restoration of the wall to its full height, and the omission of the proposed canopy feature at the entrance gateway.

Reason: To safeguard the special interest of the protected structures.

4. The west facing window in the main bedroom, bedroom no. 1, shall be reduced in width to the three central panels (i.e. c 1.7m width), to achieve a better reflection of the fenestration of the coach house.

Reason: In the interests of orderly development and the visual amenities of the area.

5. Prior to the commencement of development details of the materials, colours and textures of all external finishes including samples, shall be submitted to and agreed in writing by the planning authority.

Reason: In the interests of orderly development and the visual amenities of the area.

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

Reason: In the interest of public health.

7. 4 a) The drainage for the proposed development shall be designed and

constructed on a completely separate system with a combined final connection discharging into the public combined sewer system.

b) The development shall incorporate Sustainable Drainage Systems in the management of storm water. Full details of these shall be agreed in writing with the planning authority prior to commencement of development.

c) The developer shall carry out a comprehensive site survey to establish all drainage services that may be on the site. If drainage infrastructure is found that is not on Dublin City Council's records the developer must immediately contact Dublin City Council's Drainage Division to ascertain their requirements. Detailed as-constructed drainage layouts for all diversions, extensions and abandonment on the public drainage network, in both hard copy and soft copy in an approved format, shall be submitted by the developer to the Drainage Division shall be submitted for their written approval.

Reason: In the interest of orderly development.

8. Demolition / construction phase noise levels – shall comply with British Standard 5228 – Noise Control on Construction and open sites Part 1, Code of practice for basic information and procedures for noise control.

Reason: In the interest of residential amenity.

9. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street and laneway are kept clear of debris, soil; and other material and if the need arises for cleaning works to be carried out on the public road/laneway the work shall be carried out at the developer's expense.

Reason: To ensure that the adjoining street and laneway are kept clean and safe during construction.

10. The site and building works associated with the proposed development shall only be carried out between 0800 hours and 1800 hours Monday to Friday and between 0800 hours and 1400 hours on Saturdays. No development works shall take place on Sundays, Bank or Public Holidays.

Reason: In the interest of residential amenity.

11. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including: traffic management, noise management measures, number and size of vehicles accessing the site and disposal of demolition / construction waste.

Reason: In the interest of amenities, public health and safety.

12. Naming and numbering of the dwelling shall be in accordance with a scheme submitted to and agreed in writing by the planning authority prior to occupation.

Reason: In the interest of orderly street numbering and site identification.

Planning Inspector

20th March 2018

Appendices

- 1 Photographs
- 2 Extracts from the Dublin City Development Plan 2016-2022