



An
Bord
Pleanála

Inspector's Report ABP-301009-18

Development	Permission for 2 no. two storey mews dwellings to the rear of existing dwelling and all associated site works
Location	8 and 9 Church Mews (to the rear of 13 The Rise), Malahide, Co Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F17A/0382
Applicant(s)	Elaine Kealy.
Type of Application	Permission.
Planning Authority Decision	
Type of Appeal	Third Party
Appellant(s)	Margaret Gilbride & Others.
Observer(s)	None.
Date of Site Inspection	11 th June 2018.
Inspector	Karen Kenny

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1.0 Site Location and Description

- 1.1. The appeal site is located in 'The Rise', a residential area that is located close to the centre of Malahide. The site is part of the rear garden area of No. 13 The Rise, a two storey detached property. It is rectangular in shape with a stated area of 0.0544 hectares.
- 1.2. The rear garden has direct frontage onto the eastern side of 'Church Mews', a rear access lane that runs between 'The Rise' and 'Windsor Terrace'. Two mews style houses have been constructed on the western side of the lane and two additional houses were under construction at time of inspection. There are a number of current planning applications for mews dwellings on the eastern side of the lane.
 - 1.2.1. The lane is a cul-de-sac of approximately 106 metres in length and is approximately 5.1 to 5.2 metres wide. It has a tarmac finish and is bounded on both sides by an old stone random rubble wall measuring c. 2.0 metres in height. The lane is accessed from Healy's Lane at its northern end via an electronic gate. Healy's Lane is a narrow street that runs east from Church Road. It serves the library (rear access), an apartment development and contains a line of perpendicular on-street car parking.
 - 1.2.2. The Rise is an established residential area dating from the mid-20th century. It is a designated ACA and comprises two storey detached and semi-detached dwellings with substantial gardens. Windsor Terrace to the west comprises six semi-detached two storey over raised basement houses (c. 1835) that front onto Church Road. These houses are listed on the Record of Protected Structures.

2.0 Proposed Development

- 2.1. The proposed development would comprise of 2 no. part two-storey, part single storey mews-style dwelling and associated site development works to include access, two in-curtilage car parking spaces and site drainage.

- 2.2. The development has a stated floor area of 292 sq. metres comprising two identical dwellings. The proposed dwellings are of contemporary design combining flat roof and mono-pitched roof elements at first floor.
- 2.3. It is proposed to remove existing trees / planting to facilitate the proposed development and to provide replacement planting.
- 2.4. Vehicular and pedestrian access to the dwelling would be provided from Church Mews.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority issued a decision to grant permission subject to 18 no. conditions. The following conditions are of note:
 3. Window serving bedroom no. 2 in each dwelling shall be an oriel window¹ with obscure glazing on the main window panel and clear glazing on side panels.
 4. External finishes to be as per submitted plans and particulars. Use of pure white on the external walls is not permitted and timber finishes to be sealed to prevent discolouration.
 5. Applicant to submit revised plans for southern dwelling to include relocation of southern section of ground floor living room westward by 700 metres. The eastern outer wall of the revised living room shall be 6 metres from the eastern boundary of the site. The northern section of the building shall be relocated westwards by 150 mm in order to ensure that the separation distance at ground floor between the eastern elevation and the eastern site boundary is no less than 3 metres.
 6. Applicant to submit revised layout plan for works to the section of the lane between the applicant's property and the opposing wall to the west for written agreement. Revised layout shall set back the existing western boundary wall to provide a 6 metre roadway between boundaries, with a concrete footpath of

¹ A bay window that protrudes from the main wall of a building but does not reach ground level.

1.8 metres along the eastern section of the lane and a carriageway of 4.2 metres.

8. Landscaping plan to be submitted for the written agreement of the Planning Authority. Retained trees to be protected during development.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The Report of the Planning Authority reflects the decision to grant permission.

3.2.2. Other Technical Reports

Water Services: No objection.

Transportation Section: No objection.

Parks and Green Infrastructure: No objection.

Conservation Officer: No objection.

3.3. **Prescribed Bodies**

Irish Water: No objection.

3.4. **Third Party Observations**

- 3.4.1. A total of three submissions were received and considered by the Planning Authority. The main issues raised relate to traffic, lack of assurance in relation to works to the lane, impact on the character and amenity of the area, and previous refusals along the lane.

4.0 **Planning History**

4.1. **Appeal Site:**

- 4.1.1. There one planning reference on the appeal site which relates to an application for extension / alteration to the existing dwelling No. 13 The Rise.

4.2. In the vicinity:

4.2.1. There has been a substantial planning history associated with the immediate vicinity. These are set out in the Planning Authority's report and those of most relevance are summarised as follows:

- PL06F.243493/ F14A/0131 – No.7 The Rise. This relates to a single two-bedroom dwelling house and associated works. Permission was refused on the basis that the design was inconsistent with existing and permitted development.
- A number of individual mews houses were permitted at the rear of Windsor Terrace which are the substantial three storey houses (protected structures) along Church Road. Those on sites Nos. 2 and 5 were both dealt with by the Board in 2009 under Appeal Case References PL06F.232211 and PL06F.224801 respectively.
- A total of 8 no. applications were made to Fingal County Council in 2017 for mews style houses on sites along the eastern side of the Lane (Church Mews).
 - ABP PL06F.249204 / F17A/0214: Application for mews style dwelling to the rear of no. 15 The Rise. Fingal County Council issued a notification to grant permission in respect of this application in August 2017. This decision was subject to a third-party appeal to An Bord Pleanála. An Bord Pleanála overturned the decision of the planning authority and refused permission on the basis of traffic hazard.
 - ABP-301021-18 / F17A/0386, ABP-301020-18 / F17A/0387, ABP-301018-18 / F17A/0385, ABP-301015-18 / F17A/0384 and ABP-301012-18 / F17A/0383: Applications for mews style dwellings to the rear of no. 3, no. 5, no. 7, no. 9 and no. 11 The Rise. Fingal County Council issued a notification to grant permission in respect of each application in January 2018 following the submission of further information. The decisions are subject to third-party appeals to An Bord Pleanála.
 - F17A/0388: Application for mews style dwelling to the rear of no. 1 The Rise. Fingal County Council refused permission for the proposed

development on the basis of overshadowing and overbearing impacts on the neighbouring apartments.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Fingal Development Plan 2017-2023 is the relevant statutory plan for the area. The site is zoned 'RS', with an objective to 'provide for residential development and protect and improve residential amenity'. The zoning vision is 'to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity'.
- 5.1.2. The site is located within an ACA for 'The Rise' and the rear of the site immediately adjoins the ACA for Malahide Historic Core.
- 5.1.3. The following objectives are considered relevant:
- Objective DMS39: Infill Development respecting the height and massing of existing residential units;
 - Objective DMS87: Private Open Space;
 - Objective DMS157, DMS158 and Table 12.11: Design requirements within an ACA;
 - Objective PM39: Ensure consolidated development;
 - Objective PM44: Encourage infill on underutilised sites;
 - Objective PM45: Encourage use of contemporary and innovative design solutions subject to respecting the character and architectural heritage of the area;
 - Table 12.1: House Sizes and Table 12.3: Minimum Sizes;
 - Table 12.11: Direction for proposed development within ACAs;
 - CH32: Avoid the removal of structures and distinctive elements such as boundary treatments that positively contribute to the character of an ACA;

- DMS117: Require new developments to be designed in accordance with DMURS;
- Objective DMS32: Prohibit proposals that would create a gated community for any new residential developments.

5.2. Other Policy

- 5.2.1. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DEHLG, 2009) and its companion document, 'Urban Design Manual 2009 – A best practice guidance' (DEHLG, 2009);
- 5.2.2. Design Manual for Urban Roads and Streets (DTTS & DECLG, 2013).
- 5.2.3. Architectural Heritage Protection Guidelines for Planning Authorities (DAHG, 2011).

5.3. Natural Heritage Designations

- 5.3.1. There are no natural designations pertaining to the site.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third-party appeal was received from occupants of 'The Rise'. The matters raised that are relevant to the appeal are summarised as follows:
 - In light of previous refusal under ABP Ref. PL06F.249204, it would be contradictory not to refuse all of the developments.
 - The development is not in keeping with the ACA designation. A large proportion of the houses would be seen from The Rise and from the core of Malahide.
 - Screening and removing of long standing trees and reducing the open space would be contrary to objectives of the Fingal Development Plan.
 - Overlooking of properties is contrary to good planning.
 - Development would result in a gated community which is not encouraged.
 - The Transportation Department were not in favour of the development originally.

6.2. Applicant Response

A response has been received from Hughes Planning and Development Consultants on behalf of the applicant. The response can be summarised as follows:

- Decision under ABP Ref. PL06F249204 should not form the basis of the decision under subject appeal.
- Under ABP Ref. PL06F249204, the Board considered the development appropriate in terms of principle, design, layout and impact on residential amenity. The inspectors report referred to the need for a single planning application to be made. However, this application and the other applications relating to Church Lane show a comprehensive coordinated approach to the lane and the traffic safety measures required. This approach coupled with condition no. 6 of the notification to grant permission should not necessitate another application.
- Traffic flow and pedestrian safety measures introduced at further information stage adequately address the concerns raised.
- Stephen Reid Consulting Traffic and Transportation Limited provided the following commentary in relation to the subject proposal.
 - The existing road layout was approved by the Board (Ref. PL06F.224801). There are existing traffic movements from Church Mews onto Heeley's Lane arising from previously approved developments. It is assumed that concerns raised under the previous refusal relate to the intensification of the movements.
 - The existing gate will help public safety as vehicles are required to stop, or slow while the gate opens. Traffic speed will be minimal with adequate visibility between the gated access to Church Mews, Heeley's View, and between these gates and any road users in the turning area at the east end of Heeley's Lane.
 - There is a maximum of 7 no. houses proposed to Church Mews as part of the current applications. Typical TRICS database rates of 3 no. additional traffic movements per day for each house, would result in 21 no. additional traffic movements per day. Having regard to the central location of the

laneway in Malahide Village it is likely that trips will be by foot / bicycle and that the overall effect on traffic will be negligible.

- The proposed road layout incorporates 1 no. new speed ramp on the lane, in conjunction with existing traffic calming ramps and the gate installed at the north end of the lane, and the low speed movements in and out of individual access gates will efficiently manage vehicle speeds along the lane. This is in accordance with DMURS Section 4.4.7.
- The proposed access lane would be 6 metres in width between the eastern and western dwelling boundaries on completion of all works, with a 1.5 metre pedestrian walkway identified on either side of a 3-metre-wide carriageway and two defined passing spaces. Fingal County Council have requested a 4.2 metre carriageway with 1.8 metre footpath. Applicants preference is for an advisory footpath on both sides with central carriageway.
- Having regard to the low number of dwellings on the laneway, and the fact that it is a cul-de-sac with a gate at the northern end, the volume of pedestrian and vehicle movements will be low and therefore the incidence of pedestrians, wheelchairs, etc. meeting or passing a vehicle will be extremely low.
- The appeal response is accompanied by a revised drawing detailing the area for delivery vehicles, refuse vehicles and fire appliances to turn into and exit the lane from the northern end of Church Mews, including swept curves.
- The works to the laneway are covered by planning condition and are a matter to be resolved directly with the Planning Authority.
- The ABP Inspectors Report under PL06F.249204 / F17A/0214 refers to the need for a single application to be made in relation to the lane. The subject application and related applications clearly show a comprehensive coordinated approach to the lane and the traffic safety measures required. This coupled with the conditions of the permission should not necessitate another application and the consequent delays and costs involved.

- The laneway is a private laneway serving the residents on / off Church Mews. The appellant's have no access to the lane.
- Argued that the measures proposed adequately address concerns in relation to pedestrian safety and intensification of traffic. However, if An Board Pleanála forms the view that the subject proposal is unsuitable the applicant has prepared an alternative proposal for the Boards consideration. The proposal omits one dwelling and introduces a hammerhead in the north-west corner of the site, to provide a turning space for delivery vehicles, refuse vehicles, and fire appliances to safely turn into and exit the lane and leave in the forward direction.
- Should the Board choose to adopt the revised proposal, the applicant is open to conditions, including grandfather conditions, relating to the completion of works to the laneway or financing / completion of the hammerhead. The applicant considers that the inclusion of such a condition would address the concerns raised in relation to applicants control of the lane and in relation to the carrying out of works to the lane.
- The development that was refused by the P.A. under F17A/0388 on a site to the rear of no. 1 The Rise does not form part of the comprehensive development proposal put forward for no. 3 to 15 (inclusive) The Rise. The proposed development to the rear of no. 1 differs in terms of the height, massing, positioning, architecture and setbacks.
- The mews houses provided for under the subject application form part of a comprehensive development. Their set back from The Rise, massing, the building height proposed and the contemporary form sits conformably within the ACA. This view was shared by the PA's Planner and Conservation Officer. The Board in its recent decision for no. 15 The Rise (PL06F249204) provided positive commentary on the issue of appropriateness.
- The development uses the rear part of the garden of no. 13 The Rise. Despite the loss of part of the garden, No. 13 will continue to be provided with an area of private open space well in excess of the 75 square metre minimum standard. While the open space to the rear of the southernmost

dwelling falls short of the 60 square metre minimum it is considered appropriate as both dwellings are provided with a generous courtyard within the front.

- The development involves the removal of 10 no. trees and two ornamental hedges to facilitate the proposed development. The majority of the trees for removal are dead/dying/dangerous or of poor quality and the approved development maintains generous open space areas and includes landscaping throughout.

6.3. Planning Authority Response

- The matters raised in the appeal have been addressed in the assessment of the application.
- Permission was refused under ABP Ref. PL06F.249204 for reasons related to traffic hazard. Traffic hazard was not used as a reason for refusal under ABP Ref. PL06F.243493 / F14A/0131 to the rear of No. 7 The Rise. The Inspectors report under this appeal considered the lane width of 5.3 metres to be sufficient under DMURS. The existing 5.3 metre width which was previously acceptable to the Board during assessment of ABP Ref. PL06F.243493 / F14A/0131 would be maintained where development did not immediately take place.
- It is of concern to the Planning Authority that traffic hazard, which was not deemed a reason for refusal previously by the Board, and which was assessed and not deemed a traffic hazard by Fingal County Council's Traffic Section should form the sole reason for refusal under ABP Ref. PL06F.249204 / F17A/0214.
- The Council's Transportation Engineers assessed that the approach proposed by the applicants was suitable along a local lane with limited access subject to conditions. The development of any houses would allow for recess of the relevant section of boundary wall and creation of a turning area. The Planning Authority would be amenable to a condition from An Bord Pleanála indicating omission of gates to any of the proposed houses which would allow for increased 'borrowed' turning area.

- The matter of the gate at the entrance to the lane has been referred to the Planning Enforcement section.
- It is considered that the proposed development to the rear of no. 1-13 The Rise differ from the recent refusal of permission under PL06F.249204 due to the greater degree of boundary frontage to the laneway which would allow for achievement of turning movements. Houses 1-13 are provided with access from an existing rear lane. This does not set a precedent for backland development with access from The Rise.
- It is considered that simultaneous lodgement of the applications for development of backland sites, together with the cohesive design approach is an appropriate way of facilitating a comprehensive development within the rear gardens of the dwellings along the western side of The Rise. Consideration was also given to the precedence of existing and permitted infill development on the western side of the laneway.
- The impact on the ACA was assessed and the Conservation Officer's Report indicates that the developments are acceptable.
- Permission for a mews dwelling was refused to the rear of no. 1 The Rise under P.A. Ref. F17A/0388 due to overshadowing and overbearing impacts on neighbouring apartments. Permission was refused under P.A. Ref. F16A/0345 for development off The Mall to the north for reasons relating to lack of direct access or in curtilage parking. P.A. Ref. F15A/0321 and P.A. Ref. F16A/0461 within rear gardens of properties on The Mall demonstrate a different context to the subject appeals.
- The Board is requested to uphold the decision of the Planning Authority and to include conditions no. 6 and 15 included in the notification to grant permission.

6.4. **Observations**

None.

6.5. Further Responses

6.5.1. A further response has been received from the appellant. The issues raised are summarised as follows:

- In relation to the previous refusal under ABP Ref. PL06F.249204, the consultant's report is selective and raises no new issues, save for the reference to a 'hammerhead'. This does not satisfy the requirements of DMURS.
- Report does not address fact that the applications are interdependent. It does not refer to the fact that the developments rely on works to the laneway and that there is no commitment to same. This would provide for a piecemeal, staggered, unfinished and unsafe development. Reference to comprehensive development, cooperation and cohesion is misleading. Council stated that the proposed works to the laneway are an integral part of the wider development and could not be carried out in an isolated manner.
- Appellants have a legitimate public interest in development in the vicinity.
- Development is contrary to Objective DMS32 of the Development Plan as it would result in a gated community.
- Reference to turning bay standards in DMURS.
- Refute suggestion that laneway is exempted from Planning requirements as it is a private laneway.
- Submission includes photos of activity on Healey's Lane.

6.5.2. A further response has been received from the Planning Authority. The issues raised are summarised as follows:

- Transport Planning Section considered the development to be acceptable at initial assessment. The low speed environment of traffic in the vicinity was a significant consideration in the acceptability of the overall development.
- It is considered that the provision of a turning head at the subject site would be acceptable in principle and the Planning Authority would have no objection to the alternative proposal.

7.0 Assessment

7.1.1. This appeal is made against a decision of the Planning Authority to grant permission for a mews type development to the rear of No. 13 The Rise with frontage onto a lane known as 'Church Mews'. The development forms part of a wider development proposal for rear gardens on the eastern side of the lane. In this regard, the Board may wish to note the current appeals on lands adjacent to the appeal site, An Bord Pleanála References ABP-301021-18, ABP-301020-18, ABP-301018-18, ABP-301015-18 and ABP-301012-18.

7.1.2. I consider that the key issues in determining the appeal can be addressed under the following headings:

- Planning History
- Principle
- Design and Layout
- Impact on ACA
- Access and Traffic Safety
- Water Services
- Appropriate Assessment

7.2. Planning History

7.2.1. In order to allow for a comprehensive assessment of the proposed development, it is considered necessary firstly to set out an overview of the recent planning history pertaining to the eastern side of the lane. The Board refused planning permission under PL06F.243493 (P.A. Ref. F14A/0131) for a mews style house to the rear of no. 7 The Rise broadly on design grounds, noting the absence of a design approach that would provide a level of coherence with existing and permitted development. In response to the refusal, landowners on the eastern side of the lane collaborated to develop a masterplan for development. A series of separate, but coordinated, planning applications were submitted to Fingal County Council in 2017. Fingal County Council granted permission for a mews dwelling to the rear of no. 15 The Rise in August 2017 and for mews dwellings to the rear of no's. 3, 5, 7, 9, 11 and 13 The Rise in January 2018. Permission was refused for a dwelling to the rear of no.

1 The Rise due to concerns in relation to the impact on the apartments to the south. The decision to grant permission for a mews dwelling to the rear of no. 15 The Rise was subject to a third-party appeal to An Bord Pleanála – ABP Ref. PL06F.249204. The Board refused permission for one reason relating to traffic hazard.

7.3. Principle

- 7.3.1. The site is zoned 'RS – Residential' with a stated objective 'to provide for residential development and protect and improve residential amenity'. Residential development is permitted in principle in this zone. The site is located within an established residential area that is proximate to the centre of Malahide. Infill development within established urban areas is generally supported by government policy, as set out in the Guidelines for Sustainable Residential Development in Urban Areas. Objective PM44 of the Fingal Development Plan encourages and promotes the development of underutilised sites in existing residential areas, while objective DMS39 supports new infill development once it respects the height and massing of existing residential units and retains the physical character of the area.
- 7.3.2. On the basis of the foregoing, I am satisfied that the proposed development is acceptable in principle.

7.4. Design and Layout

- 7.4.1. In terms of design and layout, I consider the proposed part single / part two storey dwellings to be of relatively modest scale and to be subordinate to the two storey dwellings along 'The Rise' to the east and the three storey dwellings in 'Windsor Terrace' to the west. The submitted masterplan for rear gardens on the eastern side of the lane presents a coordinated approach in terms of dwelling design, layout and building setback, open space provision, access, car parking and boundary treatments. I consider that the proposed dwellings along the eastern side of the lane would have a consistent architectural language that would sit well within the established setting. I am satisfied that the coordinated approach presented within each application, ensures that the proposed developments would integrate to an acceptable degree with permitted and constructed mews style houses on the west

side of the lane, with proposed development along the eastern side of the lane and would not detract from the character of the area.

- 7.4.2. In terms of the dwellings proposed on the appeal site, they are generally in compliance with the Development Plan standards set out under Table 12.1 (house sizes) and Table 12.3 (minimum room sizes). Private open space is provided in blocks to the front and rear of the dwellings, with both spaces directly accessible from the proposed kitchen / dining / living spaces. The combined area of open space for each dwelling has a stated area of 104 sq. metres, which is significantly in excess of the Development Plan standard of 60 sq.m (Objective DMS87 refers) and is acceptable, in my view, given the urban context of the site.
- 7.4.3. In terms of residential amenity, given the position and orientation of the proposed dwellings relative to existing and proposed dwellings on adjacent sites, I am of the opinion that they would not give rise to undue overshadowing or overbearing impacts. There is no issue with direct overlooking, however, there is potential for indirect overlooking from the proposed first floor rear windows onto the neighbouring gardens. Condition no. 3 of the notification to grant permission seeks to address this issue through the provision of oriel windows with obscure glazing on the main panel. In the event that the Board is minded to grant permission I recommend a condition to this effect.
- 7.4.4. Overall, I consider that the dwellings, by reason of their simple design and overall scale, to be generally acceptable. While I would note the limitations in terms of site width and depth, I am of the view that the design approach addresses any issues that may arise and that an infill development of this nature is acceptable within this urban context and would not impact unduly on the amenities of properties in the vicinity.

7.5. **Impact on ACA**

- 7.5.1. Development within ACAs are required to be carried out in a manner that is sympathetic to the distinctive character of the ACA. Specifically, Objective DMS157 of the Fingal Development Plan requires that new development must enhance the character of the ACA and be appropriate in terms of design.

- 7.5.2. A guide on development in ACAs is set out in Table 12.11 of the Development Plan. With regard to new buildings, a sensitive design approach is required. The guidance allows for contemporary buildings provided it does not compromise the integrity and character of the area. In that regard, the scale, mass and height of the proposed houses are acceptable. They would read as a mews dwellings that are subordinate to the existing house on site, would not significantly alter the streetscape as viewed from The Rise or from Windsor Terrace due the level of screening provided by existing structures and planting and would not, therefore, compromise the integrity or character of the area, in my view.
- 7.5.3. The boundary wall along the lane is an old random rubble wall of c. 2 metres in height with intermittent gateways, that contributes to the historic character of the lane. While the loss of the wall would alter the character of the lane to a degree, I do not consider this to represent sufficient grounds for refusal of permission. I would note that a replacement stone wall is proposed as part of the development that would integrate well with any remaining sections of the existing wall. The Conservation Officer, following receipt of further information, did not state any objection to the development but rather provided comments around landscaping, screening and colour palette, which are items that could be readily addressed by way of appropriate planning conditions.
- 7.5.4. I consider that the proposal would not impact unduly on the character or setting of the ACA and that permission should not be refused on this basis.

7.6. Access and Traffic Safety

- 7.6.1. Access and traffic safety is one of the key issues that arises in this appeal in my opinion. The site is accessed from Church Mews, a narrow lane that runs to the rear of properties in The Rise and Windsor Terrace. Church Mews is accessed from Healy's Lane at its northern end via an electronic gate. There is a 90-degree bend at the gated entrance point to the lane. Healy's Lane is a busy urban street with a row of perpendicular parking bays on its northern side and no footpaths over most of its length. It accommodates rear access to Malahide Library and access to a substantial gated apartment development. There was notable activity on the lane on the day of my site inspection.

- 7.6.2. The existing 4 no. dwellings (2 no. existing and 2 no. under construction), taken in conjunction with the proposed dwellings, would provide for a total of 11 no. dwellings along Church Mews. The proposal to intensify vehicular traffic along the lane raises three key issues in my opinion. The first relates to the capacity for vehicles to safely turn into and out of Church Mews from Healy's Lane. The second relates to the width and alignment of the lane and the capacity of the lane to accommodate vehicular movements, pedestrians and cyclists. The third relates to the capacity for vehicles to turn on the lane and to leave in the forward direction.
- 7.6.3. The Board under ABP Ref. PL06F.249204, determined that a proposed mews dwelling to the rear of no. 15 The Rise, by itself and by the precedent it would set, would give rise to an unacceptable intensification of traffic movements on a gated lane in a busy urban area where visibility is restricted arising from a 90-degree bend at the gated entrance point and where it has not been demonstrated that vehicles, including emergency and refuse vehicles, can safely turn into and exit the lane or safely turn and leave in the forward direction.
- 7.6.4. I would note that the Planning Authority's Transportation Section have no objection to the developments along the lane, with the appeal response stating that the comprehensive approach proposed is suitable along a local lane with limited access.
- 7.6.5. The appeal response includes swept path analysis for turning movements at the 90-degree bend where Healy's Lane meets Church Mews. The submitted details demonstrate that a fire truck can turn safely onto the laneway. I would note that this information was not available to the Board when considering the previous appeal. While visibility is restricted on approach to the entrance to the lane I am of the opinion that this would necessitate a level of caution on approach, which would ultimately improve traffic safety.
- 7.6.6. In terms of the width of Church Mews, DMURS recommends carriageway widths of between 5 and 5.5 metres on local streets (Section 4.4.1 refers). The existing lane width of 5.1 to 5.2 metres is adequate in this context. I would note that there is an existing shared surface arrangement on the lane, with pedestrians and cyclists sharing the carriageway and no footpaths or line markings. DMURS supports shared surface arrangements in low traffic environments, stating that shared surface streets are particularly effective at calming traffic. Section 4.4.1 of the Manual states

that the total carriageway width on Local streets where a shared surface is provided should not exceed 4.8 metres.

- 7.6.7. The application details proposed alterations to the lane to include providing advisory pedestrian areas and passing bays, which would provide greater clarity for users of the lane. However, most of the works to the lane fall outside of the site boundary and the submitted site location map indicates that the applicant's interest in the lane is that of a wayleave only. It is not appropriate, in my view, to rely on works proposed outside of the site, or to attach a planning condition in relation to these works, as there is no concrete evidence to suggest that the subject applicant or other applicants along the lane, have sufficient interest to carry out the works (Section 7.3 of the Development Management Guidelines, DEHLG, 2007 refers).

Notwithstanding this, having regard to the modest extent of development proposed and to the width of the lane, I am of the opinion that it is adequate to cater for the level of vehicular, pedestrian and cyclist traffic that would be generated by the proposed developments and that the informal shared surface arrangement would be acceptable in this context. I would also note that an enhanced layout will emerge on the eastern side of the lane as permissions are implemented, through the proposal to set back the front boundary. In the event that the Board is minded to grant permission, I would recommend that a condition is attached requiring the applicant to agree details of same with the Planning Authority prior to the commencement of development to ensure a consistent approach along the lane.

- 7.6.8. In relation to turning I would note that each application incorporates 2 no. gated car parking spaces. I am satisfied that adequate provision has been made for cars to turn within these spaces. I would have concerns in relation to the capacity for 'unexpected' or 'additional' vehicles to turn (e.g. emergency vehicles or visitors). While the applicants appeal response argues that the development adequately addresses traffic safety concerns, the response states that should the Board form the view that the subject proposal is unsuitable from a traffic safety perspective, the applicant has submitted an alternative layout that omits one of the two dwellings proposed on the appeal site and provides a turning bay of 10 metres in depth and 5 metres in width to cater for delivery vehicles, refuse vehicles and fire appliances. I am of the view that the revised proposal represents a significant improvement to the overall traffic layout along the lane, particularly given the position of the turning bay

at the end of the cul-de-sac. While it is recommended, under concurrent applications, that extended parking / turning areas are provided within each site to cater for occasional turning movements, as the extent of development increases along the lane and particularly towards the southern end of the lane, the level of traffic will increase and thus, the likelihood of larger vehicles entering the lane will also increase. In the event that the subject application is not implemented, there is potential for a total of 5 no. dwellings to be constructed on the eastern side of the lane closer to the gated entrance under current applications / appeals. The additional dwellings proposed under the subject application would increase this to 7 no. dwellings with the latter two dwellings positioned at the most southern end of the lane. I am of the view that the additional development would warrant a more formal turning arrangement at the upper end of the lane. On the basis of the foregoing, should the Board be minded to grant permission for the proposed development I recommend that it should be for the revised proposal detailed in the submission to An Board Pleanála dated 3rd April 2018. I would also recommend that a condition is attached requiring the turning area to be paved to distinguish it from the carriageway (traffic calming), and that the area is not gated or obstructed in any way.

7.6.9. The response of the Planning Authority notes that the proposed development is materially different to that refused under ABP Ref. PL06F.249204, due to the greater degree of boundary frontage to the laneway relative to the site to the rear of no. 15 The Rise. I would concur with this view and in particular the greater scope to provide increased parking / turning bays within sites no. 3 – 13 The Rise.

7.6.10. In relation to development plan objective DMS32 which seeks to prohibit proposals that would create a gated community for any new residential developments, I would note that the gate is existing and that subject application does not propose to install or regularise the gate. I would also note that the Planning Authority's appeal response states that the gate has been referred to the Enforcement Section for review, suggesting that the status of the gate is unclear and is under investigation.

7.7. **Water Services**

7.7.1. The details on file in relation to water services are considered to satisfactorily address surface water drainage, foul drainage and water supply and I would note

that a letter has been submitted from the owner of the services indicating consent to access services.

7.8. Appropriate Assessment

- 7.8.1. The appeal site is not within or adjoining any Natura 2000 site. Having regard to the nature and scale of the proposed development, the location of the site in an urban serviced area and the separation distance to the nearest European sites, 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.

8.0 Recommendation

- 8.1.1. I recommend that permission is granted subject to the conditions set out below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the 'Residential' zoning of the site and the pattern of existing development in the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity and would not conflict with the objectives of the Development Plan for the area. The proposed development would, therefore, 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 28th December 2017 and by the further plans and particulars received by An Bord Pleanála on the 3rd day of April, 2018, 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 proposed development shall be amended as follows:
 - (a) The existing stone boundary wall along Church Mews shall be set back to provide a width of 6 meters between the site and the opposing boundary on the west side of Church Mews.
 - (b) The proposed turning bay details in the further plans and particulars received by An Bord Pleanála on the 3rd day of April, 2018, shall be paved in a suitable material to distinguish it from the adjacent roadway and shall remain open to the street and shall not be gated or obstructed in any way to provide for vehicular turning.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity and traffic safety.

3. Details of the front boundary setback and the proposed extension to the carriageway of the adjoining laneway (Church Mews) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of amenity and of traffic and pedestrian safety.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenity.

5. Details of landscaping shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. (a) All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.
(b) All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

7. Proposals for a name / house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs and house numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

8. 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.

9. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

10. All necessary measures shall be taken by the contractor including wheel wash facilities, to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of works.

Reason: To protect the amenities of the area.

11. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

12. All trees within and on the boundaries of the site shall be retained and maintained, with the exception of the following:

- (a) Specific trees, the removal of which is authorised in writing by the planning authority to facilitate the development.

- (b) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

Retained trees and hedgerows shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species, together with replacement planting required under paragraph (b) of this condition.

Reason: In the interest of visual amenity.

13. The developer shall pay to the planning authority a financial contribution 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. Details of the

application of the terms of the Scheme 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 the proper application of the terms of the Scheme.

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.

Karen Kenny

Senior Planning Inspector
27th June 2018