



An
Bord
Pleanála

Inspector's Report ABP-303562-19

Development	Demolition of an existing shed and the construction of a 2-storey mews dwelling house together with all associated site works & services.
Location	'Sycamore View', Heely's Lane, (to the rear of No. 1 'The Rise'), Malahide, County Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F18A/0537
Applicant	Deirdre Rochford.
Type of Application	Planning Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellants	1. Richard Rogers. 2. Residents of Heeley's View Apartments
Observers	None.
Date of Site Inspection	28 th May 2019.
Inspector	Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The appeal site has a stated site area of 0.0287ha and it consists of the rear garden area of No. 1 'The Rise', a dwelling house located on the western side of 'The Rise' c100m to the south of its junction with 'The Mall' and c0.4km to the east of Malahide's Train Station.
- 1.2. No. 1 'The Rise' also known as 'Sycamore View' is a large previously extended and much altered c1960s 2-storey semi-detached dwelling house whose original curtilage extends in a westerly direction to where it meets Heeley's Lane. In its current form it benefits not only from vehicle access onto 'The Rise' but also onto Heeley's Lane to the rear at a point where Heeley's Lane terminates at its L-shaped junction with Church Mews.
- 1.3. Bounding the northern boundary of the site itself is a multi-unit apartment complex known as 'Heeley's View Apartments' and bounding the southern boundary of the site is the rear garden area serving No. 3 'The Rise'. The rear boundary of No. 3 'The Rise' consists of a tall and attractive period stone wall.
- 1.4. Access to Heeley's Lane is via a double solid metal gate with spiked tops over. This entrance is located towards the southern side of the rear boundary and its gates hang from a tall stone pillar on its southern side and a plastered painted as well as concrete capped pillar on its northern side. It is of a width that easily accommodates vehicle traffic entering and exiting the site. Immediately to the north of this entrance there is a single storey gable shaped timber clad outbuilding. Immediately to the south west of the rear entrance is the gated entrance to Church Mews. The area immediately to the east of this entrance is overgrown and appears to contain several mature trees and shrubs.
- 1.5. Heeley's Lane is a congested cul-de-sac lane that provides a limited number on-street pay and display car parking spaces towards its southern end. The latter is in the form of perpendicular car parking spaces near the entrance serving the site and the entrance to the Heeley's View Apartment complex. Heeley's Lane connects to the R124 (Church Road) c106m to the west of the entrance serving the site; it is of a variable width; it has double yellow lines running alongside its southern road side and parts of its northern roadside edges. It also contains light standards but there are no continuous lengths of pedestrian footpaths present along its length. It has a

predominantly residential and dense urban character. It also provides access to the rear area associated with a public library whose principal facade addresses 'The Mall'.

- 1.6. 'The Rise' is an established residential area that dates to the mid-20th Century and it is a designated 'Architectural Conservation Area' (ACA) under the current Fingal Development Plan. It is characterised by 2-storey detached and semi-detached dwellings with substantial front and rear gardens. Several the neighbouring properties to the south are benefitting from rear boundaries that align with Church Mews and there is an established planning precedent for the subdivision of these residential properties with access onto service lanes for the provision of mews type developments.

2.0 Proposed Development

- 2.1. Planning permission is sought for the demolition of an existing shed structure with a stated 30m² gross floor area and the construction of a 2-storey 3-bedroom contemporary in architectural style mews dwelling house with a stated gross floor area of 166m². It is proposed to locate this dwelling house in the rear garden area of No. 1 'The Rise' and to provide separate access onto Heeley's Lane. In addition, planning permission is also for two off-street car parking spaces accessed through a new opening to the north of the existing opening on the western boundary, the subdivision of the curtilage of No. 1 'The Rise' to accommodate the proposed mews dwelling together with all associated site works and services.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority issued a decision to **grant** permission subject to 13 no. conditions. The following conditions are of note:

Condition No. 3 relates to an unauthorised gate on the western boundary.

Condition No. 5 restricts the use to a single dwelling house.

Condition No. 6 requires that all bathroom/en-suite windows be fitted and permanently maintained with obscure glass.

Condition No. 10 requires the replacement of trees.

Condition No. 13 requires payment of a stated Section 48 contribution sum.

This notification to grant planning permission is accompanied by 3 advisory notes. These relate to Section 34(13) of the Planning and Development Act, 2000, as amended; encroachment/oversailing; and, require compliance with Building Control Regulations.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The **initial Planning Officers** report concluded with a request of further information relating to -

Item No. 1: Residential & visual amenity Impact.

Item No. 2: Impact on existing mature trees.

Item No. 3: Revised site layout plan.

Item No. 4: Surface water and drainage arrangements.

The **final Planning Officers** report reflects the Planning Authority's decision to grant planning permission for the development sought.

3.2.2. **Other Technical Reports**

- **Parks & Green Infrastructure:** No objection.
- **Water Services:** No objection.
- **Transportation:** No objection.
- **Conservation:** No objection.

3.3. **Prescribed Bodies**

3.3.1. **Irish Water:** No objection.

3.4. Third Party Observations

- 3.4.1. Three submissions were received and considered by the Planning Authority during their assessment of this application. I consider that the planning issues raised correlate with those raised by the appellant in their grounds of appeal submission to the Board.

4.0 Planning History

4.1. Planning History of the Appeal Site - No. 1 'The Rise', Malahide, Dublin.

P.A. Reg. Ref. No. F17A/0388: Permission was **refused** for a 2-storey mews dwelling to the rear and west of the existing dwelling together with all associated site works and services. The first reason for refusal relates to negative visual impact and serious injury to the residential amenity of properties in its vicinity. The second reason for refusal considered that the proposed development would seriously injure residential amenities of the habitable spaces of the adjoining apartment units in Heeley's View by way of overshadowing and for this reason it was considered that the proposed development would be contrary to Objective DMS30 of the Fingal Development Plan, 2017 to 2023, which requires such developments to comply with.

P.A. Reg. Ref. No. F16B/0135: Permission was **granted** for alterations to a previously approved 2-storey extension to the rear of No. 1 The Rise (Note: P.A. Reg. Ref. No. F13B/0039).

P.A. Reg. Ref. No. F13B/0039: Permission was **granted** for the demolition of an existing garage and covered side passage and the construction of a 2-storey extension to the side and rear as well as internal alterations to the ground and first floor internal layout of No. 1 'The Rise'.

4.2. In the Vicinity of the Appeal Site

No. 14 Church Mews (Rear of No. 3 'The Rise'), Malahide.

ABP Ref. No. 301020-18 (P.A. Reg. Ref. No. F17A/0387)

On appeal to the Board planning permission as **granted** for a development consisting of a 2-storey mews dwelling house to the rear of an existing dwelling house together with all associated site works and services. The Board in deciding to grant permission

considered that: *“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, would not adversely affect the character of the Architectural Conservation Area, would not conflict with the objectives of the current Development Plan for the area and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area”.*

No. 13 Church Mews (Rear of No. 5 ‘The Rise’), Malahide.

ABP Ref. No. 301021-18 (P.A. Reg. Ref. No. F17A/0386)

On appeal to the Board permission was **granted** for a new 2-storey mews dwelling house to the rear and west of the existing dwelling house in an ACA; and, all associated site works including access, parking spaces as well as site drainage works. The Boards stated reasons and considerations were the same as ABP Ref. No. 301020-18 above.

No. 12 Church Mews (Rear of No. 7 ‘The Rise’), Malahide.

ABP Ref. No. 301018-18 (P.A. Reg. Ref. No. F17A/0385)

On appeal to the Board permission was **granted** for a new 2-storey mews dwelling house to the rear of an existing dwelling house and all associated site works as well as services. The Boards stated reasons and considerations were the same as ABP Ref. No. 301020-18; and, ABP Ref. No. 301021-18 above.

No. 11 Church Mews (Rear of No. 9 ‘The Rise’), Malahide

ABP Ref. No. 301015-18 (P.A. Reg. Ref. No. F17A/0384)

On appeal to the Board permission was **granted** for a new 2-storey mews dwelling house to the rear of an existing dwelling house and all associated site works as well as services. The Boards stated reasons and considerations were the same as ABP Ref. No. 301020-18; ABP Ref. No. 301021-18; and, ABP Ref. No. 301015-18 above.

No.s 8 & 9 Church Mews (Rear of No. 13 ‘The Rise’), Malahide.

ABP Ref. No. 301009-18 (P.A. Reg. Ref. No. F17A/0382)

On appeal to the Board permission was **granted** for a new 2-storey mews dwelling house to the rear of an existing dwelling house and all associated site works as well as services. The Boards stated reasons and considerations were the same as ABP Ref. No. 301020-18; ABP Ref. No. 301021-18; ABP Ref. No. 301015-18 and ABP Ref. No. 301009-18) above.

No. 15 'The Rise', Malahide.

ABP Ref. No. 249204 (P.A. Reg. Ref. No. F17A/0214)

On appeal to the Board permission was **refused** for a 2-bedroom dwelling house together with all associated site works and services. The Boards reason for refusal reads as follows:

“The proposed development, 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 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 from the southern end of the lane and from the proposed house at this point. Furthermore, in the absence of satisfactory evidence that the stated widening and alterations to the lane can be delivered such as would comply with the guidance set out in the Design Manual for Urban Roads and Streets 2013, it is considered that the development, if permitted, would lead to unacceptable movement conflicts between motorised vehicles and other road users which would fail to protect vulnerable road users in particular. Accordingly, the proposed development would endanger public safety by reason of a traffic hazard and would, therefore, be contrary to the proper planning and sustainable development of the area”.

5.0 Policy and Context

5.1. Local Planning Policy Provisions

- 5.1.1. The Fingal Development Plan 2017-2023 is the applicable development plan for the area. The site is in an area zoned 'RS' - Residential, the objective for which is to “provide for residential development and protect and improve residential amenity”. The

vision for the zoning 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, CH32, DMS158 and Table 12.11** - 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 & Table 12.3** – Minimum House Sizes;
- **Table 12.11** - Guidance for proposed development within ACAs;

5.2. National Planning Policy Provisions

- National Planning Framework, 2018.
- 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);
- Architectural Heritage Protection Guidelines for Planning Authorities (DAHG, 2011).

5.3. Natural Heritage Designations

5.3.1. There are two European sites that are situated with c350m to the north of the appeal site. They are Broadmeadow/Swords Estuary SPA (Site Code: 004025); and, Malahide Estuary SAC (Site Code: 000205).

5.4. EIA Screening

5.4.1. Having regard to the nature, scale and scope of the proposed development within the development boundary of Malahide, north County Dublin, the nature of the receiving environment, the serviced nature of the site and its setting, the separation distance between the site to the nearest sensitive location, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development. I consider therefore that the need for Environmental Impact Assessment can be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal submitted on behalf of the Heely's View apartment complex can be summarised as follows:

- This development as revised will have an overbearing and overshadowing impact on the appellants properties.
- The paved courtyard to the south and west of the apartment complex is an essential amenity space for its residents. The proposed development would be overbearing when viewed from this space and the amenity value of the space would be diminished by way of excessive overshadowing.
- The applicant has failed to demonstrate the protection of amenities of properties in its vicinity.
- It is not considered that the building line of this development conforms with other mews development permitted in its vicinity.
- There is an extension being currently constructed to the rear of No. 1 'The Rise' which has not been shown in the contiguous drawings or shown in site sections. It is considered that this extension and the proposed development would result in the overdevelopment of the site.
- The Rise is an ACA and the proposed development will be visible from its street frontage and would have a detrimental impact on its visual amenities.

- The capacity of Heeley's Lane and Church Road to accommodate the additional traffic this development alongside any future developments to the rear of No. 3 to 15 'The Rise' would generate is questioned.
- The proposed development, if permitted, would make the existing hazardous road arrangements along Heeley's Lane worse.
- The proposed development would be detrimental to the proper planning and sustainable development of the area and should therefore be refused.

6.1.2. The grounds of appeal submitted by Richard Rodgers, resident of the adjoining Heeley View apartment complex, can be summarised as follows:

- The position of the proposed dwelling would be within 1.2m from the southern boundary and this proximity is objected to.
- The proposed dwelling would result in a detrimental effect on the existing quality of light and the visual amenity of the appellants property.
- The separation between Heeley's View apartment and the proposed dwelling is considered minimal.
- The repositioning of the dwelling towards the southern boundary by c1m would alleviate some of the appellants concerns as it is considered that this would reduce the level of adverse impact on their residential amenity.
- The adjoining sites to the south of the site where similar housing developments have been permitted are located towards the southern boundary of their respective sites and have separation distances above that proposed under this application from their northern boundary. These properties also have staggered building lines.
- The appellant by way of this appeal is seeking to protect the amenities of their property and it is hoped that the Board will ameliorate the concerns raised.

6.2. Applicants Response

6.2.1. The applicant's response to the appeal submissions received by the Board can be summarised collectively as follows:

- The proposed development meets all the relevant development standards.

- The contents of the appeal made by the residents of Heely's View Apartment complex is spurious given the level of development that has taken place on these adjoining lands.
- As the Heely's View Apartment Complex was constructed in 2008 no legal right to light has been established.
- The site has an established residential use zoning.
- It is not accepted that the proposed development would give rise to serious injury of residential amenity for properties in its vicinity.
- The proposed development would not be visible from the main road of 'The Rise'.
- The proposed development is respectful of the ACA character.
- No objection was raised to the proposed development by the Planning Authority's Conservation Officer.
- It is not accepted that the volume of traffic on Heeley's Lane would increase significantly by the type of development proposed under this application.
- Reference is made to the planning history of 'The Rise' where similar developments have been permitted.

6.3. Planning Authority Response

6.3.1. The Planning Authority's response can be summarised as follows:

- The proposed development would not give rise to any undue levels of negative impact upon the residential amenities of neighbouring properties, subject to compliance with recommended conditions included in the Planning Authority's notification to grant permission.
- It would not be feasible for the applicant to replicate a similar mews dwelling to the south on their site.
- The proposed design allows for the vista closure to Heeley's Lane while maintaining amenity to the north of it. Relocation of the mews dwelling to the south of the site would not achieve this.
- The Board is requested to uphold its decision.

7.0 Assessment

7.1. Introduction

7.1.1. The Board has received two 3rd Party appeals against the decision of the Planning Authority, Fingal County Council, to grant planning permission following significant amendments on foot of a request for further information for the demolition of an existing single storey shed structure, the construction of a 2-storey mews dwelling house together with all associated site works and services. By virtue of the type of development sought the subdivision of the western portion of the rear garden of No. 1 'The Rise', a c1960s much modified and extended detached dwelling house that fronts onto the main road that runs through 'The Rise ACA' is also sought.

7.1.2. In recent years the Board have decided several similar types of development to the south of the appeal site and onto the eastern side what has the appearance of a former service lane. This lane is known as Church Mews and access onto it is restricted via an electronically operated gate that extends across its entire width at the point its junctions with Heeley's Lane.

7.1.3. From examination of the submissions and documentation on file, together with my inspection of the site and environs, I consider the principal issues which arise in this appeal case are as follows:

- Principle, Design and Layout; and,
- Access and Traffic Safety.

7.1.4. I propose to consider each of the above stated issues in turn in my assessment below. In addition, I also propose to assess the matter of Appropriate Assessment, prior to making my recommendation to the Board.

7.2. Principle, Design and Layout

7.2.1. The development sought under this application essentially consists of the demolition of a 30m² shed structure of no apparent merit and the construction of a 2-storey detached dwelling house in part of the rear garden area of No. 1 'The Rise'. This substantial and much extended to the side and rear c1960s semi-detached dwelling has a principal façade which fronts onto and forms part of an ACA under the Fingal Development Plan, 2017 to 2023.

- 7.2.2. By virtue of the height and extent of this dwellings main structure alongside its later side extension there are no substantive views from the public domain of the ACA into the rear garden area of this property. However, the mature trees to the rear in places are visible projecting above the roof height and in side views as one journeys from the 'The Mall' in a southerly direction to where you meet the north easternmost corner of No. 1 The Rise.
- 7.2.3. In addition, the built form of the southern portion of the Heeley's View Apartment Complex is partially visible.
- 7.2.4. In this context and having regard to the proposed mews dwellings building height, built-form, mass, scale, palette of materials and placement towards the westernmost portion of the long rear garden area of No. 1 'The Rise' together with the presence of mature trees to the immediate rear of this property. I therefore consider the proposed development, if permitted, would not adversely impact on the streetscape scene of this ACA.
- 7.2.5. The site itself is zoned 'RS' with a stated objective "*to provide for residential development and protect and improve residential amenity*".
- 7.2.6. While the proposed development would provide for residential development alongside the consolidation and densification of centrally located serviced urban land in a manner that is consistent with local through to national planning policy provisions, subject to safeguards including but not limited to that the proposed development would include appropriate measures that ensure the protection and improved residential amenity of property in its vicinity.
- 7.2.7. Based on the above considerations the general principal of the proposed development is in my view acceptable and it is not considered that it would adversely impact upon its ACA setting in any significant way.
- 7.2.8. In relation to the overall design and layout of the proposed mews dwelling that has a part single storey element but is mainly 2-storey in its built form I consider the contemporary design and its subordinate character to No. 1 'The Rise' appropriate. I also consider that rear garden space amenity spaces that would remain between the rear of the proposed and existing dwelling house alongside the way it is subdivided is appropriate. Moreover, I also consider it appropriate that the proposed rear boundary of the proposed mews dwelling is consistent with other similar mews developments

permitted to the south of the site. Notwithstanding, I would raise a concern in relation to the impact on the root structure of two mature trees in its vicinity which the new subdivision boundary would have a level of undue impact if no safeguards are included in any grant of permission.

7.2.9. My main concern in relation to the overall design and layout is the proximity of the proposed mews dwelling to the northern boundary of the site irrespective of the setback nature of the 2-storey element.

7.2.10. On this matter having regard to the limited lateral separation distance between the proposed building, the northern boundary of the site which I noted is of a significant height relative to the southern portion of Heeley's View apartment complex, I tend to share the view that the 2-storey element would give rise to overshadowing of the limited private open space amenity spaces of these properties alongside the window openings and balcony features present on its western and southern elevations.

7.2.11. Other mews dwellings permitted to the south have sought to bring the 2-storey section closer to the southern boundary than the northern boundary. It is likely that this placement which is consistent with mews dwellings to the south of the site was in part to safeguard residential amenities of properties to the north of it alongside maintaining a harmony in building form and building rhythm to the eastern side of Church Mews.

7.2.12. I consider it is not unreasonable for the appellants to seek that the proposed mews dwelling is repositioned in a southerly direction where there is ample space to do so and where it would give rise to lesser residential amenity impact on adjoining properties by way of reducing the level of overshadowing and reducing the loss of daylight. This is particularly more reasonable having regard to the high probability that these neighbouring dwelling units have more limited residential amenity than that of detached, semi-detached and other types of dwellings in the vicinity of the proposed development. Such dwelling types are recognised to generally benefit from greater provisions of private open space and often greater lateral separation distance from other properties through to often enjoy more than one external aspect.

7.2.13. In relation of the visual impact of the mews dwelling as appreciated from the public domain of Heeley's Lane I consider its repositioning by c1m in a southerly direction as suggested by the appellant would not result in the loss of this proposed dwellings potential to create a positive built focal end point at the end of Heeley's Lane but rather

it would result in a greater harmony when considered in relation to the other mews dwellings recently permitted to the south of it and it would result in the roof profile of No. 1 'The Rise' being more legible from this context.

- 7.2.14. I consider in this instance that the repositioning of the proposed mews dwelling house by 1-meter in a southerly direction is a reasonable compromise as it would result in a lesser residential amenity impact on properties in its vicinity by way of reduced levels of overshadowing and it would also result in a lesser reduction in daylight/natural light. This I consider is consistent with the land use zoning of the site which seeks to protect such amenities. Subject to this revision I consider that the proposed mews dwelling, if permitted, would give rise to no other substantive residential and visual amenity concern over and above what would be normally expected in such a built-up setting.

7.3. Traffic and Access

- 7.3.1. The appellant raises concerns in relation to the capacity of the Heeley's Lane to absorb the additional volume of traffic that this development would generate alongside the cumulative additional capacity issues such developments would also generate.
- 7.3.2. The site is accessed from the easternmost end of this cul-de-sac lane at a point where it meets the gated access to Church Mews access to which is restricted via electronically controlled gates. There is a 90-degree bend at the gated entrance point to the lane and at the time of my site inspection I observed no vehicles entering or exiting from Church Mews whereas with Heeley's Lane I observed a steady flow of traffic with many of these vehicles seeking to access the limited number of pay and display spaces thereon. During my time in the vicinity of the site I also observed congestion and traffic movement being blocked from people waiting to obtain a car parking space as well as from the associated movements from the perpendicular car parking spaces. Further to this I observed traffic associated with accessing and exiting the rear parking area of Malahide Library.
- 7.3.3. I note that the Planning Officer and the Planning Authority's Transportation Section raised no significant objection to the proposed development; however, it does appear that the existing vehicle entrance on the western boundary could be an unauthorised. Hence the requirements of Condition No. 3 of the Planning Authority's notification to grant permission which I consider are reasonable in such a case.

- 7.3.4. In terms of visibility from the proposed entrance serving the mews dwelling and its two off-street car parking spaces I consider it gives rise to no visibility concerns subject to the provision of adequate splays onto Heeley's Lane itself. I am however not satisfied that there is adequate space to accommodate the turning movements of cars within the confines of the site itself to a degree that no significant level of reversing onto the public road occurs due to the lack of visibility for other road users having regard to the entrance details proposed. On this concern should the Board be minded to grant permission it may consider it appropriate to reduce the level of off-street car parking to one or to increase the area behind the roadside boundary in a southerly direction to accommodate the off-street car parking provision proposed alongside providing a greater setback and splay for the entrance proposed.
- 7.3.5. In terms of the boundary treatments I consider them to be generally consistent with those present on the site and to the south of it.
- 7.3.6. In terms of the width of Heeley's Lane despite its variability it is nonetheless consistent with Section 4.4.1 of DMURS where it recommends carriageway widths of between 5 and 5.5m on local streets. This lane functions as a shared surface with pedestrians, cyclists and motorists sharing the surface arrangement of the lane along its restricted length. I also observed very low speeds and it appeared that persons using the lane had a high degree of familiarity with its limitations and busy nature.
- 7.3.7. I am cognisant that DMURS supports shared surfaces in low traffic speed environments.
- 7.3.8. I am further cognisant that national policy also seeks densification of serviced lands in such areas particularly where there is easy access to public transport which is the case with this location.
- 7.3.9. Based on the above I am of the view that the proposed development due to its modest nature and extent would give rise to a limited volume of traffic and that Heeley's Lane is adequate to cater for the level of vehicular, pedestrian and cyclist traffic that would be generated by it. I therefore consider that the proposed development would not give rise to any adverse road safety or traffic issue; however, should the Board be minded to grant permission for the proposed development I recommend that a condition be attached requiring the applicant to agree the specific details of the entrance and

roadside boundary treatment alongside the provision of a greater on site turning area for the proposed off-street car parking spaces.

7.4. **Other Matters**

7.5. **Impact on Trees:** Should the Board be minded to grant permission for the proposed development I consider that they should impose a condition similar to Condition No. 10 of the Planning Authority's notification to grant permission to ensure that the proposed development does not result in any significant diminishment to sylvan character of this area in part contributed to by the number of mature trees within the confines of the appeal site. Moreover, these trees also create strong visual buffers that help to maintain a level of privacy between dwelling units within this built up landscape alongside are important to the biodiversity of the area.

7.6. **Enforcement:**

7.6.1. I consider the concerns of the Planning Authority in relation to the gate and entrance on the western boundary is an enforcement matter and should be dealt with by the Planning Authority as they see fit.

8.0 **Appropriate Assessment**

8.1.1. 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.

9.0 **Recommendation**

9.1. I recommend that permission is **granted** subject to the conditions alongside the reasons and considerations set out below.

10.0 **Reasons and Considerations**

10.1. 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.

11.0 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 27th September 2018 and by the further plans and particulars received on the 17th December, 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 mews dwelling shall be repositioned by a minimum of 1-m towards the southern boundary wall of the site.
 - (b) The proposed area to accommodate the two off-street car parking spaces shall be extended in a southerly direction to facilitate adequate turning movements associated with them in order to limit the reversing of vehicles onto the cul-de-sac lane. In addition, the proposed entrance and the roadside boundaries shall be revised to create improved visibility for other road users.

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 in the interests of traffic safety.

3. Details of the entrance onto Heeley's Lane and the roadside boundary 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. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than [1:500] showing –

- (b) Hard landscaping works, specifying surfacing materials, and finished levels.

- (c) Tree protection measures to safeguard existing mature trees to be retained on site during the course of construction works.

- (d) The species, variety, number, size and locations of all proposed trees and shrubs which shall include the planting of 3 no. replacement *Quercus robur* 'Fastigiata Koster' trees of a minimum girth size of 14-16cm, in the first planting season following completion of construction works.

- (e) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.

- (f) A timescale for implementation.

- (g) Within a period of six months following the substantial completion of the proposed development, any mature tree for which retention was indicated, which is damaged or dies shall be replaced in a manner consistent with (d) of this condition.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously

damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and 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. 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.

8. Proposals for a name/house numbering and any associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the house name/number shall be provided in accordance with that agreed.

Reason: In the interest of urban legibility.

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. The developer shall comply with the following requirements:

- (a) 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.
- (b) The developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from the construction work and shall either make good any damage to the satisfaction of the Planning Authority or pay the Planning Authority the full cost of making good any such damage upon issue of such a requirement by the Council.

Reason: To protect the amenities of the area.

- 11. Development described in Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, shall not be carried out within the curtilage of the proposed house without a prior grant of planning permission.

Reason: To prevent unauthorised development.

- 12. All bathroom/en-suite windows shall be fitted and permanently maintained with obscure glass. The use of film is not acceptable.

Reason: In the interests of residential amenity.

- 13. The developer shall comply with the following requirements of the Planning Authority's Transportation Section:

- (a) No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900mm; which would interfere or obstruct (or could obstruct over time) the required visibility envelopes.
- (b) All underground or overhead services and poles shall be relocated, as may be necessary, to a suitable location adjacent to the new roadside boundary at the developer's expense.

Reason: In the interests of orderly development and the proper planning and sustainable development of the area.

- 14. 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.

15. 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.

Advisory Note: The applicant is advised that under the provisions of Section 34(13) of the Planning and Development Act, 2000 (as amended), a person shall not be entitled solely by reason of a permission to carry out any development.

Patricia-Marie Young
Planning Inspector
12th day of June, 2019.