



An
Bord
Pleanála

Inspector's Report ABP-305282-19.

Development	Protected Structure – change of use from office use to residential use with 4 no. residential units together with all associated site works.
Location	No. 37 Jocelyn Street, Dundalk, Co. Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	19/463.
Applicant	Kevin Cluskey.
Type of Application	Planning Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party.
Appellants	Anne Wynne.
Observers	None.
Date of Site Inspection	11 th and 13 th December, 2019.
Inspector	P.M. Young.

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1.0 Site Location and Description

- 1.1. No. 37 Jocelyn Street, the appeal site has a stated site area of 0.02ha and is located on the southern side of Jocelyn Street, c6m to the west of where Jocelyn Street intersects with Castle Road and Seatown Place, and c48m to the east of its junction with Jocelyn Drive in Dundalk's historic town centre.
- 1.2. No. 37 Jocelyn Street is an attractive red brick 2-storey 2-bay of breakfront-built form with habitable attic level end of terrace period property that dates to c1870s and forms part of a terrace group of four similar in built-form and appearance period properties. It is setback from the public footpath by a small front garden area that is enclosed with painted decorative cast iron railings that sit on granite plinths with steps up to the front door. The northern portion of this property includes a 2-storey element over a carriage arch which contains a highly decorative what appears to be original mainly solid timber double gate. The carriage arch, under croft and laneway does not form part of the appeal site but there is a pedestrian access point from the rear western boundary of the site. To the rear of the main elevation there is a mainly 2-storey rear return and an L-shaped single storey return. The latter extends the full width of the property whereas the 2-storey rear return extends circa two thirds of the width of the rear elevation and is not original to the building. In addition, there is a modest in height and scale single storey flat roof concrete block shed structure located in the north western most corner of the rear yard area. The rear yard area is hard surfaced and is bound by tall walls on its west, south and part of its eastern side. Immediately to the south of it there is an attractive 2-storey period building that contains single storey additions to its northernmost elevation.
- 1.3. The subject property is predominantly vacant but submitted documentation on this file indicates that it was previously used in its entirety as an office space.
- 1.4. No. 37 Jocelyn Street forms part of a highly attractive wide period street that contains many fine examples of Georgian and Victorian period properties with on-street paid car parking on either side. It is heavily trafficked and at the time of my site inspection there was no available on-street parking in its immediate and wider vicinity. To the west there are a wide range of land uses present including offices, residential, commercial through to religious whereas to the east the number of properties in residential use increases. Photographs taken during the site inspection are attached.

2.0 Proposed Development

2.1. Planning permission is sought for development at No. 37 Jocelyn Street, a Protected Structure, consisting of the proposed change of use from office to residential use consisting of 4 no. apartment units. The proposed works include alterations to window and door openings to rear return ground floor; new flat roof to single storey rear return; new rooflights to rear pitch; alterations to internal layouts; repair and upgrade works throughout, and all associated site works to a two storey plus attic.

2.2. According to the documentation submitted the 4 no. apartment units consist of:

- Apartment Labelled No. 1: This apartment has a stated floor area of 73m² and is described as 2-bedroom 3-person dwelling unit.
- Apartment Labelled No. 2: This apartment has a stated floor area of 40.3m² and is described as 1-bedroom 2-person dwelling unit.
- Apartment Labelled No. 3: This apartment has a stated floor area of 73m² and is described as 2-bedroom 4-person dwelling unit.
- Apartment Labelled No. 4: This apartment has a stated floor area of 64m² and is described as 1-bedroom 2-person dwelling unit.

And these would be served by a shared 35m² communal amenity space.

2.3. This application is accompanied by an Architectural Heritage Impact Assessment which includes but is not limited to including a detailed photographic inventory of the exterior and interior of the subject building.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to **grant** permission subject to 7 no. conditions including:

Condition No. 2(i): This omits the rooflight window in the attic study room.

Condition No. 2(ii) to (viii): Sets out a number of detailed conditions dealing with the surviving built fabric, sets out requirements for insulation and where original windows are no longer *in situ*.

Condition No. 3: Restricts any changes to the exterior of the structure or site and also restricts lighting as well as other fixtures to the building save without a prior grant of planning permission.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The Planning Officer's report is the basis of the Planning Authority's decision and concluded that the proposed development which constitutes of the reuse of an existing substantially vacant building located on land zoned for 'Town Centre Mixed Use' is acceptable subject to safeguards.

3.2.2. **Other Technical Reports**

Infrastructure: No objection subject to recommended conditions

3.3. **Prescribed Bodies and Referrals**

3.3.1. No referrals made.

3.4. **Third Party Observations**

3.4.1. During the Planning Authority's determination of this application they received a submission from the appellant which I consider raises similar issues to those raised by them in their grounds of appeal submission to the Board (See Section 6.1 below).

4.0 **Planning History**

4.1. **Site and Setting**

4.1.1. None relevant.

5.0 **Policy & Context**

5.1. **National Planning Context**

5.1.1. The '*Architectural Heritage Protection, Guidelines for Planning Authorities, 2004*' provide detailed guidance in respect of the provisions and operation of Part IV of the

Planning and Development Act, 2000, as amended, regarding architectural heritage, including protected structures and Architectural Conservation Areas. They detail the principles of conservation and advise on issues to be considered when assessing applications for development which may affect architectural conservation areas and protected structures.

5.2. Local Planning Context

5.2.1. Louth County Development Plan, 2015-2021.

Section 2.16.4 of the said Plan indicates that the statutory plan for the urban and surrounding environs area of Dundalk is currently the Dundalk & Environs, 2009-2015, and that the County Development Plan will be an overarching plan for the entire county including Dundalk.

Section 5.10.3 of the said Plan set out guidance for proposals to Protected Structures.

Policy HER 33 states that the Planning Authority shall seek: *“to ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, is compatible with the special character and is appropriate in terms of the proposed scale, mass, density, layout and materials of the protected structure”*.

Policy HER 34 states that the Planning Authority shall seek that *“the form and structural integrity of the protected structure and its setting shall be retained and the relationship between the protected structure, its curtilage and any complex of adjoining buildings, designed landscape features, designed views or vistas from or to the structure shall be protected”*.

In relation to Architectural Conservation Areas (ACAs) Policy HER 45 states that the Planning Authority shall seek *“to require that any development within or affecting an ACA preserves or enhances the character and appearance of the architectural conservation area”*.

Section 4.10.2 of the said Plan indicates that the provision of an area of outdoor private amenity space, attached to or available to each residential unit is important for the quality of the residential environment and therefore all new residential units will be required to have access to an area of private amenity space. It also states that “a

relaxation of these standards for public and private amenity space will be permitted where development is proposed to Protected Structures or within Architectural Conservation Areas, where complying with these standards would conflict with protecting architectural features of special interest and where it can be demonstrated that alternative amenities and facilities are available within the neighbourhood – as long as privacy is not compromised”.

5.2.2. Dundalk & Environs Development Plan 2009-2015

This Plan is still applicable and under which the appeal site is located within an area with the zoning objective ‘*Town Centre Mixed Use*’. This zoning objective seeks to provide for mixed use development.

Contained in Volume 2 of the said Plan is the Record of Protected Structures. It includes No. 37 Jocelyn Street (Ref ID D219) and the terrace group it forms part of. A significant number of buildings in the immediate vicinity of No. 37 are also identified as Protected Structures.

No. 37 Jocelyn Street also forms part of ACA 5.

5.3. Natural Heritage Designations

- The appeal site is located c0.5km to the south west of Special Area of Conservation: Dundalk Bay SAC (Site Code: 00045).
- The appeal site is located c0.6km to the south of Special Protection Area: Dundalk Bay SPA (Site Code: 004026).
- The appeal site is located c6.5km to the south west of Special Area of Conservation: Carlingford Mountain SAC (Site Code: 000453).
- The appeal site is located c14.2km to the south west of Special Area of Conservation: Carlingford Shore SAC (Site Code: 002306).

5.4. EIA Screening

- 5.4.1. Having regard to the nature and scale of the development sought, the lack of any direct hydrological connectivity from the site to any nearby sensitive receptors, the serviced nature of the site and its setting as well its location in the historic heart of Dundalk town, I consider that there is no real likelihood of significant effects on the environment

arising from the proposed development. Therefore, 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 3rd Party grounds of appeal can be summarised as follows:

- Concerns are raised that the site boundaries show land outside of the applicant's legal ownership.
- The residential amenities of the proposed units would not be of sufficient high quality nor would they meet required standards.
- Concerns are raised in relation to the visual, amenity and built heritage impact of the amended roof height of the single storey building to the rear.
- The amended roof structure would also adversely impact on the setting of No. 40 Jocelyn Place, also a Protected Structure, and would also diminish the level of light to its interiors.
- The plans show a bike and bin storage area to the rear yard area but there is no access from the street to this area.
- The proposed new windows to the rear return at first floor level should be fitted with opaque glass in order to safeguard the amenity of No. 40 Jocelyn Street from increased levels of overlooking.

6.2. Applicant Response

6.2.1. The Applicants response can be summarised as follows:

- The applicant is not in ownership of the carriageway arch and gateway. No works are proposed at this location as part of the development sought. The applicant is in ownership of the first and second floor levels above this carriageway. These upper floor levels form part of the site area and the development sought.

- The subject property has been vacant for some time, is a Protected Structure, and some level of compromise should be made regarding the shortfalls in the standards.
- Private amenity space requirements under the new apartment guidelines state that these may be relaxed in part or in the whole on a case by case basis subject to the overall design quality. This property is located in the heart of the town centre and there are a number of urban spaces and parks within walking distance. The provision of bolt-on balconies would have a significant as well as detrimental impact on the character and setting of this Protected Structure.
- The increased height of the single storey structure to the rear of No. 37 Jocelyn Street is only by a marginal 220mm and would not be significantly different from the existing roof.
- There is an agreement in place with the owner of the carriageway that permits the occupants of this property to use the carriageway during the day and there is an existing gate from the rear yard of No. 37 Jocelyn Street to the yard/carriageway at No. 40 Jocelyn Street.
- Should planning permission be granted a detailed design would be agreed with the owner of No. 40 Jocelyn Street to ensure the structural integrity of the rear wall is not compromised.
- The new rooflights proposed are positioned at a higher height to prevent overlooking.
- The first-floor level windows on the 2-storey rear return overlooking adjoining properties are all original openings and would have originally had plain glass inserted in them.

6.3. Planning Authority Response

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

- The Board is requested to uphold its decision.

6.4. Referral

6.4.1. The Board referred this appeal to An Chomhairle Ealaíon; An Taisce – The National Trust of Ireland; the Development Applications Unit of the Department of Culture, Heritage and the Gaeltacht; Failte Ireland; and, The Heritage Council; however, no response was received.

7.0 Assessment

7.1. Overview:

7.1.1. I consider that the substantive issues in this appeal case are as follows:

- Principal of the Proposed Development;
- Impact on the Protected Structure, the Protected Structures in its Vicinity and on its Architectural Conservation Area setting;
- Residential Amenity for Future Occupants;
- Impact on the Amenities of Adjoining and Neighbouring Properties; &
- Other Matters Arising.

7.1.2. I also consider that the matter of '*Appropriate Assessment*' requires examination.

7.1.3. Principal of the Proposed Development

7.1.4. The proposed development sought under this application essentially consists of the change of use from office use of No. 37 Jocelyn Street, a Protected Structure, to residential use in the form of the provision of four separate residential units.

7.1.5. The subject building forms part of a larger parcel of urban land that is zoned '*Town Centre Mixed*' use. The proposed residential use proposed is deemed a permissible land use under this zone, subject to safeguards. In addition, though this building, which I observed is primarily in a vacant state and has been laid out for office use it was constructed and originally functioned as a single residential unit. Moreover, its internal layout in the main 3-storey component of the building has not significantly altered from the time it was first occupied.

7.1.6. Under both the local and national guidance the principal of the retention, sympathetic re-use and rehabilitation of a Protected Structure as well as its setting where

appropriate and where the proposal is comparable with the Protected Structures character as well as its significance is also considered acceptable subject to safeguards.

7.1.7. This is particularly provided for under Policy HER 40 of the current Louth County Development Plan and it is also consistent with Policy HER 45 of the said Plan which seeks to preserve and/or enhance the character of Architectural Conservation Area.

7.1.8. In addition, Section 7.3 of the Architectural Heritage Protection Guidelines for Planning Authorities states that *“it is generally recognised that the best method of conserving a historic building is to keep it in active use” ... “usually the original use for which a structure was built will be the most appropriate, and to maintain that use will involve the least disruption to its character”*. On this point I did observe at the time of my inspection that the lack of an active use is taking its toll on surviving built fabric with damp and decay evident in this building. This is concerning considering the high level of integrity of this building from the time it was constructed which contains many of its original features of merit including but not limited to highly decorative plaster moulding in the ground floor level main front room; many original windows and associated timber joinery; a number of original fireplaces; a highly intact and decorative staircase through to evidence of surviving timber board floors.

7.1.9. I therefore consider that the principle of the proposed development sought under this application is generally acceptable subject to any grant of permission being carried out in accordance with best practice for such buildings; notwithstanding, a more detailed examination of the specific planning issues that the proposed development gives rise to and as set out in Section 7.1.1 above is required.

7.2. Impact on the Protected Structure, the Protected Structures in its Vicinity and on its Architectural Conservation Area setting

7.2.1. As previously noted the proposed development consists of change of use and alterations to a period building that is afforded specific protection under the Development Plan as a Protected Structure and which forms part of a group of four similar in architectural style, built form, appearance and detailing properties that are adjoin and are in the visual curtilage of a number of similarly protected period buildings including a three storey Georgian building that form part of a larger designated Architectural Conservation Area.

- 7.2.2. This Protected Structure (RPS No. ID D219) is described in the Record of Protected Structures RPS) as: *“an end-of-terrace 2 bay 2-storey with attic house with central pedimented breakfront and integral carriage arch to the north elevation”* and that *“fine craftsmanship is evident in construction, not least in the use of a variety of well-finished materials in its decoration. Amalgamated with the house to the West, it has retained its original character with the survival of much original material”*. The RPS classifies this buildings interest as *“Architectura”* and *“Artistic”* as well as identifies its importance as *“Regional”*.
- 7.2.3. In addition, this building is also included in the National Inventory of Architectural Heritage under NIAH Ref. No. 13705068. The NIAH provides the following more robust detailed description for this building. It describes it as follows and *“end-of-terrace two-bay two-storey with attic house, built c. 1870. Central pedimented breakfront and integral carriage arch to north elevation, two-storey return to south. Pitched slate roof, clay ridge tiles; red brick stepped corbelled chimneystacks, raised brick banding; moulded cast-iron gutters on moulded brick corbels interspersed with rosettes, circular cast-iron downpipes. Red brick Flemish bond walling, chamfered stone plinth, continuous ashlar stone lintel courses, moulded brick strings, terracotta raking cornice supported on moulded kneelers forming open-bed pediment, terracotta rosettes to pediment. Square-headed window openings, curved carvings to heads, granite sills, painted timber one-over-one sliding sash windows, fixed frosted glass bipartite overlights; round-headed window openings to attic, two-over-one sliding sash windows with plain-glazed fanlights. Square-headed door opening, curved carvings to head, stepped brick surround, roll-moulded inner soffit and reveals, painted timber door with four ornate raised-and-fielded top panels, plain-glazed overlight, granite threshold and steps, mosaic tiling to entrance lobby. Shouldered carriage arch to east of north elevation, rock-faced block-and-start stone jambs, cut stone imposts with blank plaques, painted fascia with raised lettering “J. WYNNE. BUILDERS”, painted timber lintel, painted timber four-panel double gates with trellised panels and carved motifs to tops, cut stone carriage stops. Street fronted, wrought and cast-iron railings on ashlar stone plinth, concrete pavement to north, red clay paved areas flanking door”*.
- 7.2.4. The NIAH in my view provide a very apt appraisal of No. 37 Jocelyn Street in its statement which reads: *“this striking house, part of a terrace of four similar structures,*

has a distinguished symmetrical form, strengthened by the central breakfront. Fine craftsmanship is evident in its construction, not least in the use of a variety of well-finished materials in its decoration, which serve to enliven its form. Features such as the fenestration, door, tiled entrance and carriage arch add further interest to the site, with the survival of the fascia board being particularly interesting with its link to the past usage of the site”.

- 7.2.5. Based on these factors it is necessary and appropriate to examine the built heritage impact of the proposed development on this building, its setting in particular as a surviving set piece of four similar structures and on the Architectural Conservation Area it forms part of.
- 7.2.6. In terms of the scope of external works proposed the main interventions would be to the later rear return of the building. There will be positive conservation works carried out to the building including repairs to the brick work, render and it would appear that the applicant is amenable to the appropriate restoration of period windows and the roofscape over alongside ensuring that unsympathetic works be removed with new works to be carried out in a sympathetic manner to the aesthetics and appearance of that provided originally at the time this building was completed. Indeed, this is provided for in a highly detailed Architectural Heritage Impact Assessment which includes a comprehensive photographic record of the interior and exterior of the building which accompanies this application.
- 7.2.7. In essence the proposed development as part of the overall change of use seeks to address the buildings current state of condition which would in turn help to ensure its preservation for future enjoyment as part of what is a highly attractive with a mixture of period buildings Architectural Conservation Area streetscape setting.
- 7.2.8. In relation to the exterior works proposed to this Protected Structure that forms part of a highly intact surviving group of four similar buildings in a highly intact mixed in period architectural style streetscape should the Board be minded to grant permission for the proposed change of use it would be appropriate to provide similar conditions to that of the Planning Authority to ensure that all works to the exterior of this fine surviving example of its type are carried out in accordance with best practice and that these works are sympathetic with not just this buildings aesthetics but also with its period palette of material alongside that any modernisation works does not result in undue

loss of original built fabric or speed up decay of surviving original built fabric. In addition, the highly decorative and intact setback area to the front of this building that includes period cast iron railings, stone plinths and stone steps to the raised front door should also be covered by any conditions imposed as these features which are highly intact and in a good state of condition contribute to the intrinsic aesthetic qualities of this building, its contribution to its period group, other Period Structures within the visual curtilage as well as its Architectural Conservation Area setting.

7.2.9. In terms of the interior of the building the proposed change of use from use as an office into four separate residential units seeks to work with as part as possible and as far as practical the existing internal layout which I observed during my site inspection did maintain many of the buildings original subdividing walls.

7.2.10. It also seeks to maintain the highly attractive staircase to serve the upper floor apartment units, maintain the original window openings and provide minimal new openings into the surviving rear elevation of the building, ensure where possible that interventions to the buildings interiors are reversible and/or result in minimal loss of surviving built fabric through to are sympathetic to surviving built fabric in particular where new joinery and the like are proposed.

7.2.11. The proposed development would provide an opportunity for surviving built fabric to be preserved and maintained going forward as part of a viable economic new use of the building alongside a use, though denser than that of the original use of this building, is nonetheless a use that this building was constructed for.

7.2.12. Should the Board be minded to grant permission for the change of use I recommend that it include similar robust conditions to that proposed by the Planning Authority in order to ensure that this Protected Structure and its surviving built fabric is safeguarded and conserved into the future alongside any new works are done in a manner sympathetic to its intrinsic character and attributes.

7.3. Residential Amenity for Future Occupants

7.3.1. In terms of the standard of residential amenity for future occupants I consider that the concerns raised by the appellant are reasonable, in particular, in relation to the failure of the design concept to ensure that all of the apartment units proposed reach the minimum internal space standards; that each apartment be served with the required private open space through to the lack of adequate communal open space provided

for use of future occupants of the proposed four apartment units should planning permission be granted for the development as proposed.

7.3.2. In relation to these concerns I acknowledge that the design concept put forward has endeavoured to put forward minimal intervention to this Protected Structure. This has resulted in a situation where there are a number of deficiencies in the internal amenity of provision of the apartment units proposed when considered against the minimal local through to national planning standards for this type of development.

7.3.3. Whilst I acknowledge that there is a merit to the argument that to provide certain improvements could result in a loss of built fabric integrity arguably in my view it is more apt to consider whether the proposed quantum of apartment units are excessive in the context of this period building and that by providing a lesser number of apartment units would give rise to improved internal amenity standards for future occupants alongside lessen the quantum of communal open space and private open space that would be required within the site area to serve future occupants amongst other amenity provisions such as adequate storage and the like.

7.3.4. Having examined the submitted drawings I note that:

- Unit 1 contains a substandard aggregate bedroom space of 18.5m² when compared to the national minimum standard of 20.1m² as set out in the Sustainable Urban Housing Design Standards for New Apartments: Guidelines for Planning Authorities.
- Unit 1 fails to provide any private open space amenity. Under the said Guidelines there is a minimum requirement for this type of unit to provide 6m².
- Unit 2 is of a substandard space in terms of local through to national standards for one-bedroom apartments (Note: it is a stated 40.3m² and the national minimal standard as set out in the above stated guidelines are 45m²).
- Unit 2's aggregate Kitchen/Living/Dining space is a stated 16.4m² and the national standard as set out in the above stated guidelines is 23m².
- Unit 2 fails to meet the required 3m² national standard of storage.
- Unit 2 fails to provide any private open space amenity. Under the said Guidelines there is a minimum requirement of 5m² provision of such space.

- Unit 3 fails to meet the minimum overall floor area for a 2-bedroom 4-person apartment unit as set out in the said Guidelines with it being a stated 70m² and the said guidelines setting out a minimum standard of 73m².
- Unit 3 fails to meet the minimum aggregate kitchen/living/dining space as set out in the said Guidelines with it being a stated 28.7m² and the said guidelines setting out a minimum standard of 30m².
- Unit 3 fails to provide the 6m² of storage required under the said guidelines (Note: c.48m² provided).
- Unit 3 fails to provide any private open space amenity. Under the said Guidelines there is a minimum requirement for this type of unit to provide 7m².
- Unit 4 fails to provide the minimum aggregate kitchen/living/dining space standard of 23m² as set out in the said Guidelines (Note: a stated 21.3m² provided).
- Unit 4 fails to provide the minimum storage area required for a 1-bedroom apartment as set out in the said Guidelines (Note: 3m²). Notwithstanding, despite the limited floor to ceiling height in parts of this apartment unit the overall stated floor area is 64m² which significantly exceeds the overall minimum floor area for this type of apartment unit as set out in the said Guidelines.
- Unit 4 fails to provide any private open space amenity. Under the said guidelines there is a requirement for this type of apartment unit to provide a minimum of 5m².
- The overall scheme fails to provide any qualitative communal open space provision to serve the four proposed units. The L-shape of rear yard space is not of a size, dimension and overall standard to provide any meaningful recreational or passive communal open space provision for future occupants. The said guidelines set out minimum requirements for studio, 1-bedroom through to 3-bedroom apartment units. Based on the submitted drawings accompanying this application this development would require a minimum communal open space provision of 23m².
- The four dwelling units provide no private amenity space.
- Despite the attic unit being of a floor area that exceeds the national guidelines for such a residential unit its floor-to-ceiling height is in my view problematic with a large area of this flat having inadequate floor-to-ceiling heights for habitable floor area. This floor-to-ceiling height where it does exceed 2.4m would be further

reduced by the incorporation of insulation, fire boarding and the like. As such I do not consider that the drawings submitted reflect the actual useable habitable floor area of this unit.

- 7.3.5. Based on the above I do not share the applicants view that in the main that the proposed apartment units are compliant with applicable standards for this type of development and whilst there is a need to adopt a building sensitive approach to such buildings of built heritage importance one must pose the question in this instance is the quantum of units proposed excessive particularly considering the level of substandard amenities that they would give rise to.
- 7.3.6. Moreover, whilst I acknowledge the design approach is right to seek to minimise impact on the Protected Structure itself in terms of developing an appropriate design solution in this case, I raise concerns that the design approach lacks imagination and a qualitative outcome for future occupants. For example, it misses opportunities in terms of the ability of this building which comprises essentially of two distinctive elements, one of which, i.e. a non-original rear extension, to provide within this area an innovatively designed private open space amenity above ground floor level for Unit 1.
- 7.3.7. In addition, the communal area that is indicated is a dark, damp and restricted in dimension external space that is of extremely limited amenity value and is essentially only suitable for waste and provision bicycle storage. The level of overshadowing is such that it is unlikely that residents would use this space for drying clothes or sitting out. I therefore do not consider it reasonable to consider that the external yard area would provide qualitative or quantitative communal open space for future occupants.
- 7.3.8. Further, in my view there could have been the option to look at how Unit 2 could have sensitively incorporated even an individual yard area as the window facing onto this yard area has already been amended at some time in the past with the brick work below it not being original. This would in my view have made up for the deficiencies in its internal floor area. Moreover, arguably a light weight projection that is reversible in its design could have also been considered as this would not have been highly legible in terms of the visual appreciation of this Protected Structure with the area above also possibly providing an opportunity for the first floor level to have a light weight private open space over together with the first floor units floor area being

incorporated in the attic level in order to provide a more qualitative residential unit that would also greatly improve the mix of apartment unit sizes proposed even if this space did not incorporate private open space.

- 7.3.9. Within the wider area of the site I am cognisant that there is a provision of public open space amenity and the site itself is within walking distance of public transport as well as wide variety of services. This I acknowledge provides some level of assurance that in a situation like this, i.e. where it is imperative to provide a viable, appropriately sympathetic rehabilitation proposal for the reuse of a Protected Structure, which is for the most part in a vacant state and in need of preservation, that some level of compromise is needed to ensure that it is safeguarded into the future. Notwithstanding, I consider in the absence of any improvements to the residential amenities of this scheme to permit the proposed development as put forward would give rise to apartment units that are substandard in their nature and that this would not be conducive to providing a long-term site appropriate sustainable solution for this particular period building going forward and it would have the potential to give rise to an undesirable precedent for period buildings to be used to provide poor standard residential units.

7.4. Impact on the Amenities of Adjoining and Neighbouring Properties

- 7.4.1. The appellant in this case raises a number of concerns in relation to the proposed development, if it were permitted, to have a potential adverse impact on her established level of residential amenities. However, I do not consider that the proposed development, if permitted, would have the potential to give rise to any significant residential amenity impact from overlooking; diminishment of daylight through to nuisance. This is based on the fact the subject property is located in an urban area where there is an established level of overlooking particularly arising above ground floor level. This includes windows above ground floor level that are not fitted with opaque or other type of obscure glass that face onto the upper facades of adjoining and neighbouring buildings. In addition, the nature as well scale of historical development has given rise to a level of overshadowing arising from buildings through to their boundary treatments.

- 7.4.2. I also do not consider that the additional height proposed to the roof level of the rear return is such that it would give rise to any significant diminishment over and above the existing situation.
- 7.4.3. I am also cognisant that the proposed change of use has a lesser car parking requirement under the current Development as the buildings established use as an office building.
- 7.4.4. I do consider that there is potential for the waste storage provision to the rear to give rise to potential nuisance due to its substandard nature and design to accommodate the quantum of residential units proposed. Notwithstanding, this concern could be dealt with by way of an appropriate condition should the Board be minded to grant permission.
- 7.4.5. Based on the above considerations I am not of the view that the proposed development, subject to safeguards, would give rise to any serious injure to the established levels of residential amenity of properties in its vicinity.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development which essentially consists of a change of use of an existing building in a serviced urban area, the lack of any direct or indirect links to the nearest European Site, I consider that no appropriate assessment issues arise and that the proposed development would be unlikely to have a significant effect individually or in combination with other plans or projects on any European site.

7.6. **Other Matters Arising**

- 7.6.1. **Land:** I am satisfied that the drawings submitted with this application clearly relate to the parcel of land within the applicant's legal ownership and do not include any lands or buildings outside of their legal interest for which consent would be required.
- 7.6.2. **Access:** It would appear that the applicant benefits from a right of access from the rear yard area underneath the under croft of No. 37 Jocelyn Street and its associated laneway onto the public road of Jocelyn Street during daylight hours. I therefore raise no significant concern in terms of moving waste bins to the public road for collection and for accessing/egressing for bicycle storage from this rear yard area for future occupants should permission be granted.

7.6.3. **Structural Matters:** Any structural issues that arise to party boundaries and/or adjoining properties from any construction works that may occur on foot of any grant of planning permission would in my view would be a civil matter; notwithstanding, I also note that works to party boundaries requires the consent of those with a legal interest in these boundaries and having regard to the sensitivity of both the site and its setting which includes adjoining Protected Structures and their associated curtilages no works should be undertaken to compromise the structural integrity of their surviving built fabric of merit. As such prior to any works being under taken it would be appropriate and in accordance with best practice that robust structural investigations are carried out by an appropriate skilled and experienced professional with works carried out in accordance with the mitigation measures they recommend to the satisfaction of the Planning Authority.

7.6.4. **Building Control and Fire Regulations:** I am cognisance that these particular matters are governed by separate codes, notwithstanding, I raise concerns that in terms of access and egress in an adverse fire event it is likely that an external fire escape would be required. This provision has not been considered as part of the design concept which is concerning having regard to the potential impacts this provision could have on the integrity and appreciation of this Protected Structure, the rear of which above ground floor level is legible from the public domain, in particular from Jocelyn Drive and there are glimpses of the rear elevation of this structure and the terrace group it forms part of from Ramparts Road. The documentation indicates that these matters would be considered should permission be granted. The design concept put forward in my view has the potential to be significantly impacted by meeting these separate codes, in particular the provision of a fire escape has the potential to adversely impact on the appearance and integrity of this Protected Structure and meeting a certain level of even minimal building codes could further diminish the residential amenity for future occupants as well as surviving interior built fabric. Ideally these interventions together with the balance that is provided under the Architectural Guidelines should be considered as part of providing a comprehensive design concept for sensitive to change period building.

8.0 Recommendation

8.1. I recommend that planning permission be refused.

9.0 Reasons and Considerations

1. It is considered that the proposed layout and design of the proposed apartment development would produce a cramped and substandard form of development on this site at a density that cannot be accommodated to a level where qualitative residential amenities can be provided for future occupants of the proposed four apartment units, and if permitted in the form proposed it would result in overdevelopment of this built heritage sensitive site alongside would have the potential to set a precedent for similar buildings to be used to provide poor standard residential units and would be contrary to both local planning policy provisions and the standards set out in the 'Sustainable Urban Housing Design Standards for New Apartments: Guidelines for Planning Authorities', 2018. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

18th day of December, 2019.