



Development

- (a) Change of use from motor car servicing garage to restaurant / café (including takeaway coffee) with storage and ancillary facilities at first floor level,
- (b) Demolition of the existing single storey extension to the front and existing lean-to structure and single storey sheds to the rear,
- (c) Construction of a new single storey restaurant extension to the front and rear,
- (d) Reinstatement and modifications of the existing two storey building including the exterior and interior, including reinstatement of entrance gate piers, restaurant signage, bin storage and kitchen extractor to rear and all ancillary site development works.

Location

21 Monkstown Crescent, Monkstown, Co. Dublin, A94 EO95 (which lies within the attendant grounds of a Protected Structure, not within the

applicant's ownership).

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| Planning Authority | Dún Laoghaire Rathdown County Council |
| Planning Authority Reg. Ref. | D19A/0247 |
| Applicant(s) | Brian Hartnett |
| Type of Application | Permission |
| Planning Authority Decision | Grant subject to conditions |
| Type of Appeal | Third Party v. Decision |
| Appellant(s) | Longford Terrace Residents Association Geraldine Niland Roche |
| Observer(s) | None. |
| Date of Site Inspection | 9 th & 20 th December, 2019 |
| Inspector | Robert Speer |

1.0 Site Location and Description

- 1.1. The proposed development site is located in Monkstown Village, Co. Dublin, where it occupies a position along the northern side of Monkstown Crescent in a mixed-use area / 'neighbourhood centre' which is generally characterised by a variety of commercial & retail premises, including coffee shops, cafés / restaurants, a funeral home, a car sales showroom, a home décor outlet, and a local convenience shop / newsagent. In addition to the foregoing, there is a notable residential component within the immediate site surrounds with the adjacent properties to the immediate east and west presently in residential use. Similarly, the southern side of Monkstown Crescent opposite the application site is predominantly residential whilst the adjoining lands to the north are dominated by Longford Terrace, a pair of three-storey over basement terraces of imposing period properties.
- 1.2. The site itself is presently vacant, having been formerly occupied by a car repair workshop known as 'Coyles Garage', and comprises a two-storey 'mews' structure which has been extended at ground floor level to the front and rear. It has a stated site area of 0.03 hectares and would appear to have originally formed a coach-house associated with the adjacent residence at No. 21 Longford Terrace, although it has since been severed from that property (it would appear that much of the northern side of Monkstown Crescent consists of a similar arrangement). To the rear of the site is an open yard enclosed by high stone walls which abuts the rear garden areas of the neighbouring dwelling houses.

2.0 Proposed Development

- 2.1. The proposed development consists of the following:
- a) The change of use from a motor car servicing garage to a restaurant / café (including takeaway coffee) at ground floor level with storage and ancillary facilities to be located overhead on the first floor;
 - b) The demolition of the existing single storey extension to the front and the lean-to structure and single storey sheds to the rear;
 - c) The construction of new single storey restaurant extensions to the front and rear of the property;

d) The reinstatement and modification of the existing two-storey building, including the exterior and interior; the reinstatement of the entrance gate piers; the provision of restaurant signage; bin storage; the installation of a kitchen extractor to the rear of the two-storey building; and all ancillary site development works.

2.2. Amended proposals were subsequently submitted in response to a request for further information and the principle changes detailed therein can be summarised as follows:

- The recessing of the single storey extension proposed to the rear of the property from the western site boundary.
- The siting of external air handling units (if required) on the western elevation of the single storey extension proposed to the rear of the property.
- The redesign / repositioning of the bin storage area and the rear access ramp & steps.
- The modification of the internal configuration of the single storey extension proposed to the rear of the property with associated elevational changes.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Following the receipt of a response to a request for further information, on 22nd August, 2019 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 13 No. conditions which can be summarised as follows:

Condition No 1 – Refers to the submitted plans and particulars.

Condition No. 2 – Specifies the hours of operation and prohibits the sale of hot food for consumption off the premises.

Condition No. 3 – Requires the western elevation of the rear extension to be finished in brickwork along its entire length.

- Condition No. 4 – Requires the kitchen extraction equipment to be relocated to the rear elevation of the proposed extension.
- Condition No. 5 – Requires the proposed development to comply with the requirements of the Environmental Health Officer (Air & Noise Unit), with specific reference to noise levels and air emissions (malodours, gas, dust & fumes etc).
- Condition No. 6 – Refers to the demolition works.
- Condition No. 7 – Refers to foul and surface water drainage.
- Condition No. 8 – Requires the payment of a development contribution in the amount of €1,000 towards the provision of 2 No. on-street cycle parking stands in accordance with Section 8.2.4.7: '*Cycle Parking*' of the County Development Plan, 2016-2022.
- Condition No. 9 – Refers to the maintenance and repair of the public road (and adjoining property) during construction works.
- Condition No. 10 – Requires the payment of a development contribution in the amount of €139.52 towards the provision of surface water public infrastructure and facilities benefitting development in the area of the Planning Authority.
- Condition No. 11 – Requires the payment of a development contribution in the amount of €3,192.96 towards the provision of roads public infrastructure and facilities benefitting development in the area of the Planning Authority.
- Condition No. 12 – Requires the payment of a development contribution in the amount of €2,071.68 towards the provision of community & parks public infrastructure and facilities benefitting development in the area of the Planning Authority.
- Condition No. 13 – Prohibits the carrying out of development until an agreement has been made in writing with the Planning Authority as regards the payment of development contributions.

3.2. Planning Authority Reports

3.2.1. *Planning Reports:*

An initial report states that the proposed change of use is acceptable in principle having regard to the site location within Monkstown Village, the relevant land use zoning as 'Neighbourhood Centre', and the surrounding pattern of development. It subsequently concurs with the recommendations of the Conservation Officer (as set out below) as regards the potential implications of the proposal for built heritage considerations. However, concerns are raised that the proposed development may have a detrimental impact on the residential amenity of the neighbouring property to the immediate west by reason of overshadowing and a visually overbearing appearance. In addition, it is considered that additional details are required as regards the potential noise impact attributable to the proposed kitchen extractor and air handling units. The report thus concludes by recommending that further information be sought with respect to a number of items, including a revised design for the proposed rear extension and the submission of a noise survey.

Following the receipt of a response to a request for further information, a final report was prepared which indicated that the additional details supplied were satisfactory and recommended a grant of permission, subject to conditions.

3.2.2. *Other Technical Reports:*

Drainage Planning, Municipal Services Dept.: No objection, subject to conditions.

A / Conservation Officer: Refers to the site location within the Monkstown Architectural Conservation Area and its positioning along the northern side of Monkstown Crescent which consists almost entirely of mews buildings which formerly served the houses on Longford Terrace, all of which are designated as protected structures. It is subsequently stated that whilst the original mews structure has been extensively altered, given the site location within an Architectural Conservation Area and its previous relationship with Longford Terrace, there is considered to be a lack of supporting information with the application in the form of method statements etc. Accordingly, the report recommends that the applicant be required to submit a detailed strategy for the refurbishment of the original mews structure as well as alternative proposals for the erection of air handling units and associated ductwork in order to reduce the visual impact of same.

Executive Architectural Conservation Officer: Following consideration of the response to the request for further information, it is stated that the proposal to relocate the air handling units to a low level on the western elevation will reduce any potential visual impact on the rear elevation of the building, although the kitchen extract could be more suitably placed on the new addition in order to retain the visual integrity of the original mews building. It is also stated that the proposed development will not adversely impact on the setting of the adjacent protected structure (No. 21 Longford Terrace), is not detrimental to the established character or appearance of the streetscape within the ACA, and does not give rise to any significant built heritage concerns.

Transportation Planning: No objection, subject to conditions.

Environmental Health Officer (Air & Noise Unit): No objection, subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. *Irish Water:* No objection, subject to conditions.

3.4. **Third Party Observations**

3.4.1. A total of 35 No. submissions were received from interested third parties and the principle grounds of objection / areas of concern raised therein can be summarised as follows:

- The excessive concentration of restaurants, cafés and other late-night establishments in Monkstown Village.
- Detrimental impact on the residential amenity of surrounding properties by reason of noise (with particular reference to extraction & air handling units etc.), odours, vibration, visual impact, overbearing appearance, overshadowing, nuisance, and general disturbance.
- The development will detract from the setting and built heritage value of neighbouring protected structures and the Monkstown Architectural Conservation Area.
- The siting of extraction equipment / air handling units could potentially have an adverse visual impact on neighbouring protected structures etc.

- The proposal is contrary to the provisions of the '*Architectural Heritage Protection, Guidelines for Planning Authorities*'.
- The inadequacy of available on-street car parking / the exacerbation of haphazard parking practices.
- Increased traffic congestion / hazard within Monkstown Village.
- Incompatibility with the neighbourhood centre land use zoning.
- Sequential testing would establish that the proposal is more suited to a town centre location within Dún Laoghaire.
- The inadequacy of the sewerage network to cater for the additional loadings consequent on the development.
- Concerns with regard to the planning history of the application site and the potential for unauthorised works.
- The inadequacy of the submitted plans and particulars.
- The overdevelopment of a restricted site.
- The need for a local area plan to regulate development in the area.
- The property in question is a protected structure and should be assessed as such.
- There is a need to declare Monkstown an Area of Special Planning Control.

4.0 **Planning History**

4.1. *On Site:*

None.

4.2. *On Adjacent Sites:*

PA Ref. No. D14A/0330. Was granted on 18th July, 2014 permitting Ciara & Stephen O'Brien permission for a change of use from office and basement apartment to a single dwelling unit (in order to form a single family home over all levels) and associated works at 21 Longford Terrace (a protected structure), Monkstown, Co. Dublin.

PA Ref. No. D15A/0190 / ABP Ref. No. PL06D.246117. Was granted on appeal on 13th June, 2016 permitting London Whitehall Limited permission for a change of use from residential to café/restaurant including single storey rear extension to form new kitchen and toilet facilities. Consultation room and resource facilities at first floor level for use in conjunction with persons with autism. Demolition of existing rear boundary wall and construction of new wall to lines shown. Demolition of existing outbuilding to front courtyard area at 20 Monkstown Crescent (a protected structure), Monkstown, Co. Dublin.

PA Ref. No. D16A/0208. Was granted on 20th May, 2016 permitting David Quinn and Martina Boylan permission for a change of use from residential at ground and first floor to cafe/restaurant at ground level and resource facilities, including consultation rooms, for persons with autism at first floor level, demolition of existing outbuilding to front and boundary wall to rear, part demolition of front boundary wall, construction and relocation of new boundary wall to rear, construction of single storey extension of 64.28m² to rear, with roof lights to contain kitchen, toilets, ancillary office and stores, servery of 4.4m² in courtyard to front, new separate entrance and staircase to front accessing consultation rooms at first floor level. Alterations to existing mews building of 97.95m² to include retention of arched windows at ground level to rear, re-instatement of h/w sash windows at first floor level and brick archway to front and installation of new external doors at ground level, signage as indicated and all associated site works, all at 20 Monkstown Crescent (a protected structure), Monkstown, Co. Dublin.

4.3. *On Sites in the Immediate Vicinity:*

PA Ref. No. D07B/0150. Was granted on 18th April, 2007 permitting Robert Wilkinson permission for the construction of a two storey extension with rooflight to the rear of the existing house comprising kitchen/ dining room at ground floor level, bedroom and bathroom at first floor level and relocated stair along with associated works to the existing house including the reinstatement of the original opening at ground floor level in the front elevation and the provision of an associated glazed screen; the provision of glazed doors to the existing openings in front and rear elevations; the relocation of the existing ground floor window from rear elevation to the first floor front elevation; and general repairs and maintenance to the existing fabric of the house. All at 22A Monkstown Crescent, Monkstown, Co. Dublin.

4.4. *Other Relevant Files:*

PA Ref. No. D12A/0232 / ABP Ref. No. PL06D.241026. Was granted on appeal on 14th January, 2013 permitting James Connolly permission for a change of use from retail with ancillary café to café/restaurant with ancillary retail (235m²) and associated amendments to the internal layout of the premises, all at No. 23 The Crescent, Monkstown, Co. Dublin.

5.0 **Policy and Context**

5.1. **National and Regional Policy**

- 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. **Development Plan**

5.2.1. **Dún Laoghaire Rathdown County Development Plan, 2016-2022:**

Land Use Zoning:

The proposed development site is located in an area zoned as ‘NC’ with the stated land use zoning objective ‘*To protect, provide for and / or improve mixed-use neighbourhood centre facilities*’ where the development of a ‘restaurant’ is ‘*permitted in principle*’ in accordance with Table 8.3.6 of the Plan.

Other Relevant Sections / Policies:

Chapter 3: Enterprise and Employment Strategy:

Section 3.2: Retail and Major Town Centres:

Policy RET6: Neighbourhood Centres:

It is Council policy to encourage the provision of an appropriate mix, range and type of uses – including retail and retail services - in areas zoned objective 'NC' subject to the protection of the residential amenities of the surrounding area.

Policy RET9: Non-Retail Uses:

It is Council policy to control the provision of non-retail uses at ground floor level in the principal shopping streets of Major Town Centres and District Centres and also within the shopping parades of Mixed-Use Neighbourhood Centres.

Chapter 6: Built Heritage Strategy:

Section 6.1.3: Architectural Heritage:

Policy AR1: Record of Protected Structures:

It is Council policy to:

- i. Include those structures that are considered in the opinion of the Planning Authority to be of special architectural, historical, archaeological, artistic, cultural, scientific, technical or social interest in the Record of Protected Structures (RPS).
- ii. Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- iii. Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the Department of the Arts, Heritage and the Gaeltacht 'Architectural Heritage Protection Guidelines for Planning Authorities' (2011).
- iv. Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.

Policy AR5: Buildings of Heritage Interest:

It is Council policy to:

- i. Retain, where appropriate, and encourage the rehabilitation and suitable reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of a streetscape in preference to their demolition and redevelopment and to preserve surviving shop and pub fronts of special historical or architectural interest including signage and associated features.
- ii. Identify buildings of vernacular significance with a view to assessing them for inclusion in the Record of Protected Structures.

Section 6.1.4: Architectural Conservation Areas (ACA):

Policy AR12: Architectural Conservation Areas:

It is Council policy to:

- i. Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA).
- ii. Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area.
- iii. Seek a high quality, sensitive design for any new development(s) that are complimentary and/or sympathetic to their context and scale, whilst simultaneously encouraging contemporary design.
- iv. Ensure street furniture is kept to a minimum, is of good design and any redundant street furniture removed.

- v. Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.

Policy AR13: Demolition within an ACA:

It is Council policy to prohibit the demolition of a structure(s) that positively contributes to the character of the ACA.

(The proposed development site is located within the 'Monkstown Architectural Conservation Area').

Chapter 8: Principles of Development:

Section 8.2: Development Management:

Section 8.2.6: Retail Development:

Section 8.2.6.5: Fast Food Outlets/Takeaways

Section 8.2.11: Archaeological and Architectural Heritage

5.3. Natural Heritage Designations

5.3.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approximately 180m north of the site.
- The South Dublin Bay Special Area of Conservation (Site Code: 000210), approximately 300m northwest of the site.

5.4. EIA Screening

5.4.1. Having regard to the nature and scale of the development proposed, the site location in an established built-up area outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment

can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Longford Terrace Residents Association

- The proposed development will have a significant detrimental impact on the residential amenity of neighbouring properties by reason of the generation of excessive noise levels. In this regard, a comprehensive noise study commissioned by the appellant has established that if the proposed development were to emit noise levels within the generic limits specified by Condition No. 5 of the notification of the decision to grant permission, it would likely have a severe adverse noise impact at the nearest noise sensitive receptor i.e. No. 21 Longford Terrace.
- The imposition of Condition No. 5 as regards the submission of a noise assessment is inconsistent with the *'Development Management, Guidelines for Planning Authorities'* which state that the use of conditions to agree matters with the planning authority should be avoided in cases where the matters involved are of a fundamental nature or such that third parties could be affected. It is also stated that an applicant should not be required by condition to ascertain and comply with the requirements of a particular officer or department of the local authority.

It is clear that the issue of noise is a matter of a *'fundamental nature'* and one that could affect third parties, particularly as the Planning Authority had initially sought the submission of a noise assessment by way of a request for further information (which the applicant failed to provide). Accordingly, any requirement for a noise assessment to be carried out subsequent to the completion of works and the commencement of the operation of the use proposed is wholly inappropriate and inconsistent with the *'Development Management, Guidelines for Planning Authorities'*. Further concerns arise as regards the enforceability of that aspect of the condition which states that

'should a noise nuisance be determined mitigation measures shall be applied to abate such a nuisance' given the intensity of similar development in proximity of the application site.

- Due to the protected status of the housing at Longford Terrace, it is not open to the residents of same to attempt to mitigate the impact of any noise emanating from the existing and proposed restaurants along Monkstown Crescent. For example, planning permission would be required to replace the original sash windows to the rear of the houses with double / triple glazed window systems and it is unlikely that any such interventions would be permitted given the impact of same on built heritage considerations.
- The existing concentration and intensity of restaurant uses within the Monkstown 'Neighbourhood Centre' is already considerably in excess of what could reasonably be held as necessary to *'meet the local day-to-day needs of surrounding residents'*. Any further expansion of such uses within this Level 4 Neighbourhood Centre would be comparable to the level of restaurant provision within the Major Town Centre of Dún Laoghaire and would also exceed that of nearby District Centres. Therefore, the proposed development, by facilitating a 'Level 4' Neighbourhood Centre to compete directly with Level 2 & 3 centres (i.e. the 'Major Town Centre' of Dún Laoghaire and the 'District Centres' at Blackrock and Stillorgan), would be inconsistent with the hierarchy of towns and villages as outlined in the Core Strategy of the Dún Laoghaire County Development Plan, 2016-2022 and relevant statutory guidance.
- It is unclear why the applicant was not required to provide details of a sequential test in order to demonstrate why the proposed restaurant use could not be accommodated within the nearby 'Major Town Centre' of Dún Laoghaire or the 'District Centre' at Blackrock. The Development Plan envisages that sequential testing be used for other forms of non-retail development (e.g. Policy E16: *'Commercial Leisure'*) and states that *'the priority will be Major Town Centres locations, then District Centres and Neighbourhood Centres'*. This is considered to be particularly pertinent in the subject case given that Dún Laoghaire is struggling to maintain a viable town centre and as it is an objective of the Planning Authority to encourage night-time uses within that centre.

- Appendix 12 of the Development Plan (the Dún Laoghaire Urban Framework Plan) seeks to ‘*create vitality*’ within Dún Laoghaire by, inter alia, ‘*supporting the commercial activities of the Town, particularly along George’s Street*’ and ‘*the creation of an 18hr economy*’. In circumstances where there are vacant restaurant and café units on George’s Street, any decision to grant permission for a further increase in night-time uses within Monkstown is likely to further undermine the viability of Dún Laoghaire and thus is inconsistent with the provisions of the Development Plan.
- In the absence of any off-street parking provision, the likelihood is that the proposed development will exacerbate the levels of haphazard parking and traffic congestion / nuisance etc. prevalent in the area and would also give rise to conflicts between vehicular traffic, pedestrians and cyclists thereby rendering the public environment unsafe for use by those members of the local community attempting to access the village on foot or by bicycle.
- The concentration of restaurant uses in this historical residential area is more suited to a Major Town Centre and has had a negative impact on the existing foul and surface water drainage network which has struggled to cope with demand. It has not been demonstrated that the existing drainage infrastructure has sufficient capacity to accommodate the additional loadings consequent on the proposed development nor have any proposals been included for alternative solutions.
- Having regard to the noise, odour, visual and traffic impacts likely to be attributable to the proposed development, it is considered that the subject proposal will have a significant negative impact on the residential amenity of Longford Terrace and those neighbouring lands zoned for the protection and improvement of residential amenity in the Development Plan. This is particularly the case when taken in combination with the cumulative impacts arising from the concentration of other restaurant premises along Monkstown Crescent.
 - It has been established that if the proposed development were to emit noise levels within the limits specified by Condition No. 5 of the notification of the decision to grant permission, it would likely have a

severe adverse noise impact on No. 21 Longford Terrace. It has also been confirmed that the existing noise environment at most other nearby residential properties is already dominated by mechanical fan noise from existing commercial premises and that *'further adverse impact will arise from the continued addition to new premises in the area'*.

- Residents and business owners in Monkstown frequently complain of negative impacts due to the emission of odours and this is made worse by the concentration and intensity of restaurant uses in such a small area. Although it may be possible to mitigate the impacts of a small number of restaurants so as to avoid a nuisance, it is difficult to envisage how it would be possible to mitigate the cumulative impact of odour emissions from so many restaurants in a small area. The proposed development would serve to exacerbate this problem.

Whilst the applicant has suggested that odour emissions from the proposal could be subject to monitoring for the avoidance of nuisance, it is considered the Condition No. 5(c) as imposed by the Planning Authority is inappropriate and inadequate as it relates to a matter of a *'fundamental nature'* that could affect third parties and also requires the applicant to liaise with the Planning Authority contrary to the *'Development Management, Guidelines for Planning Authorities'*. Furthermore, it is difficult to envisage how such a condition, which requires that *'Should an olfactory nuisance be determined, mitigation measures shall be applied to abate such nuisance'*, could ever be enforced.

Before permission is granted for any new restaurant in Monkstown, it is respectfully submitted that it should be demonstrated that the development will not result in any negative impacts on air quality due to the emission of odours.

- The proposed development, by reference to the scale and bulk of the extension and the requirement for extraction plant, both in isolation and when taken in combination with other modern extensions and

associated mechanical plant etc., will have a considerable negative visual impact when viewed from No. 21 Longford Terrace (a protected structure) and neighbouring buildings.

- The proposed development will exacerbate the levels of haphazard parking and traffic congestion / nuisance etc. in the area
- The subject site is described in the public notices as lying '*within the attendant grounds of a protected structure*' and, therefore, having regard to the provisions of Section 6.1.3.1 of the Development Plan, the existing building at No. 21 Monkstown Crescent forms part of the protected structure (this would be consistent with the '*Architectural Heritage Protection, Guidelines for Planning Authorities*' which describes such buildings as falling within the curtilage of the protected structure).
- It is regrettable that the importance and special interest of the existing coach houses at Monkstown Crescent has not been highlighted in the *Monkstown Architectural Conservation Area Character Appraisal & Recommendations* or otherwise explicitly recognised in the Development Plan.
- Having regard to the '*Architectural Heritage Protection, Guidelines for Planning Authorities*', it is submitted that it is not necessary to further extend No. 21 Monkstown Crescent in order to make it fit for modern living or to keep it in viable economic use. The property has previously been in commercial use and several of the other buildings along Monkstown Crescent accommodate viable economic uses without having been extended to the rear. A number of the other coach-house buildings are in residential use and have not been extended or have only been modified to a minimal degree. An alternative use for the subject building would require a lower level of intervention and would offer the opportunity to reinstate the original pattern of fenestration to the rear of the structure.
- Whilst it is acknowledged that the rear façade of the coach-house has been altered in a number of ways, including through the erection of a small single storey extension and the enlargement of an opening to accommodate a roller shutter, it is considered that while some of the character of the original relationship between the building and the main house at No. 21 Longford

Terrace remains, any of that character and special interest will be fundamentally altered by the construction now proposed due to its size, scale, design and location.

- The nature, scale and extent of the intervention proposed within the former coach-house fails to recognise the national importance and increasing rarity of such properties and undermines the remaining special interest of the existing building. The scale of the proposed extension, and the extent to which the development will disrupt the formal relationship between the main house and its associated coach-house, is likely to result in a considerable permanent and negative visual impact on the setting of the protected structure at No. 21 Longford Terrace and on the wider built heritage value of both Longford Terrace and Monkstown Crescent. Accordingly, the proposed development will have a permanent and negative impact on architectural heritage considerations and would be contrary to the provisions of the Dún Laoghaire County Development Plan, 2016-2022 and the '*Architectural Heritage Protection, Guidelines for Planning Authorities, 2004*'.

6.1.2. *Geraldine Niland Roche:*

- Insufficient information has been provided with the application to properly assess the impact of the development on the residential amenity of the adjacent property at No. 22 Monkstown Crescent. In this regard, it should be noted that the application was not accompanied by an analysis of the potential overshadowing impact of the proposal on the appellant's property. Furthermore, the conservatory area to the rear of the appellant's property was not detailed on the submitted drawings.
- The orientation, height and proximity of the proposed development will have a detrimental impact on the residential amenity of the appellant's property, with particular reference to her conservatory area, by reason of overshadowing and an excessively overbearing appearance.
- There is no evidence to suggest that the applicant submitted the 'Noise Assessment' required by the request for further information issued by the Planning Authority and, therefore, there are concerns that the potential noise

impact of the proposed air handling units has not been satisfactorily assessed.

- Notwithstanding the absence of a 'Noise Assessment' on file, it is considered that the proposed air handling units will require on-going maintenance and upgrading works and that the proposed development will have a detrimental impact on the residential amenity of neighbouring property by reason of noise pollution and odorous emissions.

6.2. Applicant's Response

6.2.1. Response to the Third Party Appeal of the Longford Terrace Residents Association:

- The Dún Laoghaire Rathdown County Development Plan makes a clear distinction between the commercial area along Monkstown Crescent and the residential properties to the north within Longford Terrace.
- Monkstown Crescent has been designated for a neighbourhood centre and is zoned as '*NC: To protect, provide for and / or improve mixed-use neighbourhood centre facilities*' wherein the development of a restaurant is '*permitted*'.
- The former mews properties along Monkstown Crescent are not designated as protected structures and, in most cases, their ownership has been severed from the houses on Longford Terrace.
- Although the application site and its environs are within the Monkstown Architectural Conservation Area, the Development Plan states that contemporary design in such areas, which is complementary and sympathetic to the surrounding context and scale, will be encouraged.
- In its assessment of the subject application, whilst the Planning Authority noted that there were a significant number of cafés / restaurants in Monkstown Village, it was considered that the proposed development was acceptable and would not detract from the uses on offer.
- In overall terms, the grounds of appeal overstate the case in terms of possible adverse impacts and attach a level of risk to the proposed development that is out of proportion with its nature, scale and location.

- In the notification of the decision to grant permission, the Planning Authority attached Condition No. 5 with a view to limiting noise impacts from the proposed development.
- The noise limits applied by the Planning Authority are generally accepted as being appropriate for urban areas and are graduated to permit different noise levels from daytime, through the evening to night-time. These noise limits are usually applied by the EPA in relation to licensable activities whilst the Board applies generally similar limits.

To require substantially more restrictive noise limits (as has been suggested in the grounds of appeal) on a one-off basis in the subject instance would not be appropriate. There are further concerns as regards the manner in which the background noise measurements set out in the grounds of appeal were undertaken. Such an approach would constitute a significant departure from current practice and would not be appropriate on an isolated basis.

It is further submitted that the application of the reduced limits put forward in the grounds of appeal could be quite challenging in practice as the ambient noise level in urban areas is often higher than the limits sought by the appellants. There cannot be absolute confidence that the particularly low ambient noise levels measured by the appellants on a single day, at the edge of a back garden, will be replicated on other days, even in the absence of the proposed development.

- The Board is advised that the noise limits imposed in respect of its determination of ABP Ref. No. PL06D.241026, which permitted the development of a restaurant at No. 23 Monkstown Crescent, are less stringent than those presently sought by the appellants. There is no evidence that the restaurant now trading at No. 23 Monkstown Crescent is causing any nuisance in terms of noise.
- With regard to the café / restaurant permitted at No. 20 Monkstown Crescent under PA Ref. No. D15A/0190 / ABP Ref. No. PL06D.246117, neither the Planning Authority nor the Board considered it necessary to attach any condition limiting noise levels. The revisions subsequently authorised under PA Ref. No. D16A/0208 made no alteration to this aspect of the development.

- The accompanying opinion prepared by Dalton Acoustics Ltd. confirms that appropriate mitigation measures can be incorporated into the proposal to avoid any nuisance arising.
- The noise condition imposed by the Planning Authority is not unreasonable and the applicant would not be opposed to its attachment by the Board or the inclusion of a condition similar to that applied by the Board in the case of No. 23 Monkstown Crescent.
- The owner of the subject property should not be put at a serious disadvantage when compared to other uses in the immediate vicinity.
- Cognisance should be taken of the established use of the subject site as a motor repair garage, an activity which in itself can give rise to issues of noise control.
- The proposed development fully accords with the Development Plan, including the applicable land use zoning, and the appellant's efforts to apply the 'Core Strategy' to the subject proposal are flawed. The concept of a 'core strategy' was introduced into the Planning and Development Act, 2000, as amended, to help avoid inappropriate land zonings and an examination of Section 10 of the Act shows little relationship between the 'core strategy' and the assessment of an application for a restaurant. The core strategy has nothing to do with whether a change of use to a restaurant from a garage should be permitted. In practical terms, the proposed development will not result in any loss of vibrancy or amenity in Monkstown and will have no bearing on the future of Dún Laoghaire centre. In Irish planning policy, restaurants are not treated in the same way as a retail use, or indeed housing, and are not allocated in a rationed fashion (please refer to the inspector's report prepared for ABP Ref. No. PL06D.246117).
- Monkstown Village is located at the heart of a densely populated residential area and is well served by public transport with the result that many of the patrons of local cafés and restaurants do not use a private car. For those who do come by car, there is well demarcated parking in the village and its environs, the control of which is assiduously enforced. In addition, part of Monkstown Crescent has recently been the focus of a major scheme of traffic

calming, paving and parking by the Local Authority. Although the village is quite busy, the problems referenced in the grounds of appeal have been overstated.

- The Transportation Planning section of the Local Authority had no reservations about the proposed development.
- The established use of the property as a motor repair garage would present significantly greater problems in terms of traffic safety than the proposed restaurant.
- The applicant's engineering consultants assessed the drainage system and proposed using the existing connection to the public sewer. Neither Irish Water nor the Local Authority has any objection to the proposal, subject to conditions.
- The reference to flooding in the grounds of appeal is misplaced as the application site is located in Flood Zone 'C' and has not previously flooded.
- With regard to the issue of malodours, Condition No. 5(c) as imposed by the Planning Authority requires the submission of an odour management plan. It is also standard practice to fit carbon filters to address this issue.
- In terms of visual amenity, it is clear that the proposed development will constitute a major improvement in the appearance of the property. With respect to the proposed rear extension, this will be somewhat smaller in footprint to that granted at No. 20 Monkstown Crescent under ABP Ref. No. PL06D.246117.
- From an architectural heritage perspective, very considerable work will be required to bring the original mews building up to an appropriate standard. Much of the building fabric was removed years ago, including the entire front wall of the structure at ground floor level.
- The question of whether a former mews building is or is not a protected structure must be decided on the merits of each case. This issue was previously raised in several instances in Monkstown Crescent (e.g. ABP Ref. Nos. PL06D.219291, PL06D.233343 & PL06D.234290) and the Board has

generally accepted that these mews buildings are not protected structures, unless there is strong evidence to the contrary.

- The subject site is not entered on the Record of Protected Structures and was alienated from No. 21 Longford Terrace a considerable time ago. It is an independent commercial unit standing on its own grounds and is not a protected structure.
- Notwithstanding the foregoing, both the applicant and the Planning Authority have treated the proposed development in a manner as if it were a protected structure e.g. considerable care has been taken to ensure the retention of remaining building fabric.
- Most of the original mews buildings along Monkstown Crescent have been extended with the previous occupant of the subject site having used the rear yard for car parking as well as vehicle repair etc. The nature and extent of the proposed rear extension is very similar to that permitted at No. 20 Monkstown Crescent, which is a protected structure. The proposed front extension is essentially a replacement of an existing poor quality structure. Therefore, given the existing state of the building and the expenditure required to bring it back into use, the nature and extent of the proposed development is considered to be reasonable.
- The Board previously rejected very similar arguments to those advanced in its assessment of ABP Ref. No. PL06D.246117.

6.2.2. Response to the Third Party Appeal of Geraldine Niland Roche:

(In the interests of conciseness, and in order to avoid unnecessary repetition, the Board is advised that this submission reiterates several of the points made in the applicant's response to the third party appeal lodged by the Longford Terrace Residents Association as outlined above).

- In response to a request for further information, the extension proposed to the rear of the property was substantially redesigned. The overall height of the roof ridge is marginally greater than that of the conservatory to the rear of the appellant's dwelling house (No. 22 Monkstown Crescent) and there are no

doors or window openings facing towards that property other than for a door giving access to a small lightwell close to the shared boundary.

- Following the receipt of the response to the request for further information, the Planning Authority noted, in respect of noise impacts, that the Environmental Health Officer had no objection to the development subject to conditions.
- The Planning Authority is satisfied that the proposed single storey extension abutting the appellant's property boundary would not unreasonably compromise the residential amenity of that property by reason of overshadowing, overlooking, or by being visually overbearing.
- The impact of the proposed development on No. 22 Monkstown Crescent by reason of overshadowing will be relatively minor. The rear extension is to the north of the main terrace of buildings along Monkstown Crescent and thus is in a location which will be overshadowed irrespective of whether the proposed extension is constructed or not.
- The modest scale and low-rise roof design of the proposed rear extension will minimise any shadow impacts.
- The accompanying overshadowing analysis demonstrates that the proposed rear extension will give rise to very little additional overshadowing.
- The design of the proposed rear extension serves to minimise its visual impact and cannot reasonably be described as overbearing.
- Contrary to the grounds of appeal, the conservatory to the rear of the appellant's property is clearly shown on the contextual elevational drawing.
- Most of the original mews buildings along Monkstown Crescent have been extended with the previous occupant of the subject site having used the rear yard for car parking as well as vehicle repair etc. The nature and extent of the proposed rear extension is very similar to that permitted at No. 20 Monkstown Crescent, which is a protected structure. The proposed front extension is essentially a replacement of an existing poor quality structure. Therefore, given the existing state of the building and the expenditure required to bring it back into use, the nature and extent of the proposed development is considered to be reasonable.

- The extension permitted to the rear of No. 20 Monkstown Crescent is comparable in extent to that proposed on site but with a different external expression (i.e. a flat roof and parapet detail). It is considered that the subject proposal compares favourably in terms of its appearance and visual impact.
- The principle concern set out in the grounds of appeal is that the proposed air handling units will generate excessive levels of noise. In this regard, it should be noted that the air handling units will be located at a low level on the western side of the proposed extension away from the appellant's dwelling house. Furthermore, Condition No. 5 as imposed by the Planning Authority offers adequate assurance that there will be no excessive noise levels generated by the development.
- The accompanying opinion prepared by Dalton Acoustics Ltd. confirms that appropriate mitigation measures can be incorporated into the proposal to avoid any noise nuisance. The suppliers of the air handling equipment have also confirmed that they can supply suitable noise attenuation equipment.
- The noise limits applied by the Planning Authority are generally accepted as appropriate for urban areas and are graduated to permit different noise levels from daytime, through evening to night-time. These noise limits are usually applied by the EPA in relation to licensable activities whilst the Board applies generally similar limits.
- The appellant has sought the completion of noise surveys in advance of any decision to grant permission, however, notwithstanding that the Planning Authority initially raised the issue of a noise survey, following the receipt of further information, both the case planner and the Environmental Health Officer were satisfied to attach an appropriate condition. Furthermore, in the context of Monkstown Crescent, it is submitted that it would be an unnecessary requirement to seek such a survey in advance of granting permission for a relatively modest café / restaurant development. This is a typical development in an urban area zoned as a neighbourhood centre which is not likely to be particularly intrusive and where there are other restaurants in the vicinity.

- Cognisance should be taken of the established use of the subject site as a motor repair garage, an activity which itself can give rise to issues of noise control.
- Permission has been granted on appeal for restaurants at Nos. 20 & 23 Monkstown Crescent and in neither case was it deemed necessary to carry out a noise survey in advance of the grant of permission.
- With regard to the café / restaurant permitted at No. 20 Monkstown Crescent under PA Ref. No. D15A/0190 / ABP Ref. No. PL06D.246117, neither the Planning Authority nor the Board considered it necessary to attach any condition limiting noise levels. The revisions subsequently authorised under PA Ref. No. D16A/0208 made no alteration to this aspect of the development.
- With regard to the issue of malodours, Condition No. 5(c) as imposed by the Planning Authority requires the submission of an odour management plan. In restaurant developments, it is also standard practice to fit carbon filters and this will form part of the odour management plan.
- The proposed rear extension is modest in extent and height and is considerably smaller than the two-storey extension to No. 22A Monkstown Crescent on the other side of the appellant's property. It is of the same general order of scale as that permitted, but not yet constructed, to the rear of No. 20 Monkstown Crescent.
- The Board has previously rejected very similar arguments to those advanced in its assessment of ABP Ref. Nos. PL06D.246117 & PL06D.241026.

6.3. Planning Authority Response

- States that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.4. Observations

None.

6.5. Further Responses

6.5.1. *Response of the Longford Terrace Residents Association to the Third Party Appeal of Geraldine Niland Roche:*

- Both appellants have raised considerable concerns as regards the potential impact of the proposed development on the residential amenity of neighbouring properties by reason of odour.
- Whilst the Longford Terrace Residents Association is of the opinion that the proposed development should be refused permission, should the Board be minded to approve the application, and in light of the concerns raised in both appeals, the following condition should be attached to any grant of permission:

'In the interest of protecting the existing residential amenity and properties within the area the proposed development should install, operate and maintain an appropriate odour elimination system on the cooking extract system to include active carbon filters together with duct injection odour systems such as UV ozone neutralisers or atomising odour neutralisers.

The applicant and any subsequent occupier shall undertake an annual maintenance or service contract for the ongoing maintenance of the odour elimination system with the manufacturer or suitably qualified person.

Reason: In the interests of preserving the residential amenity at existing properties on Longford Terrace, Monkstown, Dublin'.

6.5.2. *Response of the Longford Terrace Residents Association to the Applicant's Submission on the Third Party Appeal of Geraldine Niland Roche:*

- With respect to the applicant's comparison of the proposed development to that permitted to the rear of No. 20 Monkstown Crescent, the subject application proposes extraction flues on the rear / principal elevation of the building (i.e. that facing the protected structure of Longford Terrace). In this regard, Section 8.5.12 of the 'Architectural Heritage Protection, Guidelines for Planning Authorities' states 'the addition of external flues should be avoided

wherever possible and not be allowed to interrupt important elevations. Vent pipes should not be generally permitted on the roofs of principal elevations'.

- Although the response of the applicant to the third party appeal of Geraldine Niland Roche has been forwarded for comment, the Board has not circulated the applicant's response to the third party appeal of the Longford Terrace Residents Association.
- The applicant has stated that he has consulted '*an expert in noise control (Dalton Acoustics Ltd.) which has assured us that appropriate mitigation measures can be incorporated to ensure there will be no nuisance arising*'. He then proceeds to defend the noise limits suggested by Condition No. 5 of the notification of the decision to grant permission.

Given that the study undertaken by ICAN Acoustic Consultants on behalf of the Longford Terrace Residents Association (as submitted with the grounds of appeal) found that, if the proposed development were to emit noise levels within the limits specified by Condition No. 5, it would likely have a severe adverse noise impact on No. 21 Longford Terrace, the meaning of the applicant's reference to mitigation measures is unclear as follows:

- Is it the case that the applicant's acoustic consultants conducted a noise assessment, which contradicts the findings of the appellant's assessment, and are using this as a basis on which to suggest that an increase in noise within the levels set out in Condition No. 5 would not result in nuisance? If this is the case, was the applicant's acoustic assessment submitted to the Board for consideration?
- Is it the case that the applicant's acoustic consultants recommended that, in order to avoid nuisance due to noise, any increase in noise from the application site as a result of extraction must be kept within noise limits lower than what was set out in Condition No. 5? If so, what noise limits did the consultants propose? Was this information provided to the Board?
- On the basis that the Longford Terrace Residents Association does not have all information relevant to the applicant's response to the third party appeal of Geraldine Niland Roche, it is not in a position to comment comprehensively.

The LTRA would therefore welcome the opportunity to comment on all new material planning information submitted to the Board by the applicant.

6.5.3. *Response of the Planning Authority to the Applicant's Submission on the Third Party Appeal of Geraldine Niland Roche:*

- States that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeals are:

- The principle of the proposed development
- Impact on built heritage considerations
- Impact on residential amenity
- Traffic implications
- Infrastructural requirements
- Appropriate assessment

These are assessed as follows:

7.2. **The Principle of the Proposed Development:**

7.2.1. The proposed development site is located on lands zoned as 'NC' with the stated land use zoning objective '*To protect, provide for and / or improve mixed-use neighbourhood centre facilities*' where the development of a restaurant is 'permitted in principle' in accordance with Table 8.3.6 of the Dún Laoghaire Rathdown County Development Plan, 2016-2022. Further support is lent to the proposal by reference to Policy RET6: '*Neighbourhood Centres*' of the Plan which expressly states that it is the policy of the Planning Authority to encourage the provision of an appropriate mix, range and type of uses in areas zoned as 'NC', subject to the protection of the residential amenities of the surrounding area. Indeed, it is envisaged that a number

of the larger neighbourhood centres in the Plan area are capable of being promoted as local mixed-use nodes accommodating a range of uses beyond simply retailing or retail services. It is also of relevance to note that the site in question previously traded as a motor repair workshop and that the subject proposal involves the re-development of a vacant and somewhat underutilised commercial property for an alternative use that is perhaps more in keeping with the range of services and amenities provided by the Monkstown neighbourhood centre. Accordingly, having regard to the foregoing, and in light of the site location in an established mixed-use area, which is already characterised by a variety of commercial & retail premises, including several coffee shops & cafés / restaurants, I am satisfied that the overall principle of the proposed development is acceptable.

7.2.2. Having established that the development of a restaurant at the location proposed is generally acceptable from first principles, it is necessary to consider whether or not the subject proposal, when taken in conjunction with similar food-related establishments in the area, would result in an overconcentration or excessive proliferation of such outlets in the locality. In this respect, it has been asserted that the existing concentration of restaurant uses within the Monkstown Neighbourhood Centre is already considerably in excess of what could reasonably be held as necessary to '*meet the local day-to-day needs of surrounding residents*' and that any further such activity would be inconsistent with the hierarchy of towns and villages set out in the Development Plan by allowing a 'Level 4' Neighbourhood Centre to compete directly with Level 2 & 3 centres (i.e. the 'Major Town Centre' of Dún Laoghaire and the 'District Centres' at Blackrock and Stillorgan), with particular reference to the levels of vacancy within Dún Laoghaire and the difficulties it is experiencing in maintaining a viable town centre.

7.2.3. Whilst I would acknowledge that there is a variety of coffee shops, cafés & restaurants in the wider area and that the subject proposal will result in an additional such premises, cognisance must be taken of the site location within the Monkstown Neighbourhood Centre where such uses would typically be expected to locate (as opposed to within predominantly residential or industrial areas etc.). Furthermore, a successful village or neighbourhood centre is one that provides for a diverse range of services that encourages activity at different times of the day (as envisaged by Policy RET6: '*Neighbourhood Centres*' of the Plan) thereby fostering a vibrant and

viable destination for an assorted mix of visitors and patrons. In this regard, it is notable that the Monkstown Neighbourhood Centre already accommodates a considerable mix of local services and uses which are bolstered by a clustering of cafés / restaurants etc. thereby providing for a wide range of choice and commercial synergy. Accordingly, on balance, I am not of the opinion that an additional restaurant at the location proposed would undermine the local service function of Monkstown Village nor would it detract from the range of uses presently on offer in the neighbourhood centre such that it would become a single use destination. Moreover, there is no specific policy provision in the Development Plan which would prohibit or limit the continued expansion of this particular use class in Monkstown unless it can be demonstrated that there would be an adverse impact on the vitality and viability of the centre. In effect, the siting of cafes / restaurants within village / neighbourhood centres is left to market forces and it is not the function of the planning system to inhibit competition.

- 7.2.4. With regard to the suggestion that the concentration of café / restaurant uses within Monkstown village is already excessive in light of its designation as a 'Neighbourhood Centre' and that the proposed development would be more suitably sited within a major town centre such as Dún Laoghaire in order to avoid undermining the county settlement / retail strategy, I am unconvinced by the merits of such an argument and would dispute the parallels which have sought to be drawn by the appellants. The subject application concerns a change of use to a restaurant and such proposals would not typically be subjected to a 'sequential test' which is more typically applied in respect of retail developments. Furthermore, I am not satisfied that the failings of any one particular urban centre are necessarily attributable to the success of another and thus I would suggest that the inference in the grounds of appeal that a development of the nature and scale proposed would be contrary to the core strategy and the wider policy objectives of the Development Plan is misplaced.

7.3. Impact on Built Heritage Considerations:

- 7.3.1. In terms of built heritage, although the proposed development site is not expressly included in the Record of Protected Structures set out in Appendix 4 of the Dún Laoghaire Rathdown County Development Plan, 2016, it has been asserted in the grounds of appeal that the property nevertheless falls within the curtilage of the

neighbouring protected structure at No. 21 Longford Terrace to the immediate north and thus is afforded the same level of protection by reference to the definition of a 'protected structure' as set out in Section 2 of the Planning and Development Act, 2000, as amended. In this respect, the case has been put forward that the application site includes the two-storey coach-house originally associated with No. 21 Longford Terrace and, therefore, notwithstanding the subsequent physical and legal separation of the two properties from one another, the historical relationship between them is such as to accord with the advice contained in Chapter 13: '*Curtilage and Attendant Grounds*' of the '*Architectural Heritage Protection, Guidelines for Planning Authorities*' which states that the extent of the curtilage of a protected structure may include such mews buildings.

- 7.3.2. The issue of whether or not the existing mews structures along the northern side of Monkstown Crescent fall within the respective curtilages of the adjacent protected structures within Longford Terrace (and thus can be afforded the same protection) has been considered at length by the Planning Authority and the Board on a number of occasions e.g. ABP Ref. Nos. PL06D.219291, PL06D.220628, PL06D.233343, PL06D.234290 & PL06D.246117. By way of summation, whilst various submissions have asserted that the mews buildings should be considered to fall within the curtilage of the protected structures (as supported by the opinion of Justice O'Brien in his deliberations concerning a judicial review relating to a grant of planning permission issued in respect of No. 6A Monkstown Crescent (June, 2006) wherein he proffered: "*in my view it is clear or at the very least it can be said that there are substantial grounds for contending that 6A Monkstown Crescent is a structure which attracts the status of being a "protected structure" by virtue of the aforementioned definition of structure or protected "structure" as set out in s.2 of the Act of 2000*"), those views were not accepted by the Planning Authority as a reason to review its position in relation to the conservation status of the mews structures as evidenced by the continued absence of same from the Record of Protected Structures contained in the current Development Plan for the area. Moreover, the Board has not taken issue with the Planning Authority's view that the mews buildings are not protected structures and has previously held that the former mews structures along Monkstown Crescent should not be regarded as being within the curtilage of the protected structures along Longford Terrace.

- 7.3.3. Having considered the foregoing, I am inclined to concur with the approach previously adopted by the Board that the relationship of the existing mews building on Monkstown Crescent with No. 21 Longford Terrace has long been severed both physically and in terms of use. Whilst I would accept that there is a historical connection between the respective properties, the subject site is now under different ownership and functions as a 'standalone' property which bears more of a relationship with the adjacent units along Monkstown Crescent. Accordingly, I am satisfied that the application site is not within the curtilage of a protected structure.
- 7.3.4. With regard to the site location within the Monkstown Architectural Conservation Area and the impact of the proposed works on the surrounding area, including the wider streetscape and the setting of nearby protected structures, having reviewed the submitted plans and particulars, with particular reference to the *'Planning Report & Architectural Heritage Impact Report'* and the additional details supplied in response to the request for further information, in my opinion, the proposed development represents an appropriate design response to the site context. It provides for the replacement of the later extension erected to the front of the property with a new single storey construction of a comparable scale which will feature more suitably proportioned fenestration. Provision has also been made for the reinstatement of the front entrance gate piers (presently obscured by existing signage) to either side of the entrance doorway. The single storey extension proposed to the rear of the two-storey building will also serve to replace and / or screen other inappropriate additions / alterations to the original building fabric and is of a suitable scale and design so as not to unduly interfere with the remaining appreciable character of the mews structure / coach house.
- 7.3.5. With respect to the two-storey mews building itself, the proposal includes for the repair of the existing roof construction, the retention and repair of the remaining original first floor windows to the front and rear (with the replacement of non-original fabric to match), and the reconfiguration of the internal layout of the structure.
- 7.3.6. On balance, I am satisfied that the proposal to demolish and replace the unsympathetic later additions and extensions to the front and rear of the original mews construction, in addition to the modifications proposed to the internal layout of the property will not result in any significant loss of items of built heritage value. The existing 'coach house' has been significantly altered over the years with an almost

complete loss of original fabric internally and in this regard I would suggest that its contribution to the character of the surrounding streetscape and the Architectural Conservation Area derives primarily from the generally extant nature of the first floor building envelope which is to be suitably repaired and will continue to be appreciable post-development. Therefore, it is my opinion that the proposed development will not detract from the character of the architectural conservation area and is acceptable from a built heritage perspective.

7.4. Impact on Residential Amenity:

- 7.4.1. The principle concerns raised in the grounds of appeal relate to the potential detrimental impact of the proposed development on the residential amenity of neighbouring properties by reason of noise and odorous emissions, with particular reference to the siting of extraction ducts and air handling units to the rear of the property proximate to adjacent residences. In this respect, conflicting positions have been adopted by the applicant and the appellants as regards best practice in the assessment of noise and the use of conditions as a means by which to limit or abate noise emissions.
- 7.4.2. In assessing the possible impact of the proposal on the receiving environment by way of noise and odours, at the outset, I would suggest that it is only reasonable for the purposes of comparison to have regard to the established / former use of the property in question as a vehicle repair workshop / garage given that such an operation would likely have generated noticeable levels of noise and fumes arising from typical car repair activities, including the use of hydraulically powered equipment / tools, the running / revving of engines, and vehicle testing. Secondly, cognisance should be taken of the site location within an established neighbourhood centre, which is already characterised by a variety of commercial & retail premises, including several coffee shops & cafés / restaurants, where uses such as that proposed would typically be expected to locate. Thirdly, there is a clear precedent as regards the overall acceptability of siting restaurant services in this locality by reference to the planning history of the area and the surrounding pattern of development.
- 7.4.3. Having reviewed the submitted details, including the baseline noise study compiled by ICAN Acoustics on behalf of the applicant and the appellant's response to same

(please refer to the report prepared by Dalton Acoustics Ltd.), whilst it would be open to the Board to insist that a more comprehensive noise impact assessment be carried out on the subject site prior to determining the current application, and although the applicant's limited monitoring would seem to suggest that background noise levels in the area are relatively low (i.e. below the noise limits referenced in Condition No. 5 of the notification of the decision to grant permission as issued by the Planning Authority), given the site context, the limitations of the survey work undertaken (noting that the baseline noise survey would seem to have been carried out when the established use of the application site as a vehicle repair workshop had ceased), and established good practice as regards the imposition of noise limits in order to protect noise sensitive receptors / dwelling houses, it is my opinion that any noise emissions emanating from the proposed development can be satisfactorily addressed by way of condition.

- 7.4.4. Whilst I would concede that the proposed development may possibly result in increased noise levels being experienced within the rear garden areas of neighbouring residential properties, in my opinion, this would not in itself warrant a refusal of permission. The Board could attach a condition requiring that during the operational phase of the proposed development the noise level arising from the development as measured at any point along the external boundary of the site shall not exceed an LAeq T value of 55 dB(A) during the period 0800 hours to 2200 hours from Monday to Sunday inclusive. Such a noise level in my view would be acceptable having regard to the site's location within an established neighbourhood centre adjacent to a main street. Indeed, the Board has previously imposed such conditions in similar circumstances.
- 7.4.5. With regard to the issue of the proposed extraction ducting and air handling units, I am similarly satisfied that matters pertaining to same, including the control of odorous emissions, can be satisfactorily addressed by way of an appropriate condition in the event of a grant of permission. Moreover, I am unconvinced that the visual impact arising from the presence of the extraction equipment to the rear of the property will detract to any significant extent from the character or amenity of neighbouring protected structures.
- 7.4.6. In respect of concerns that the single storey extension to the rear of the site will result in overshadowing of the existing conservatory area within the adjacent

residential property to the immediate east, having considered the site context, with particular reference to the alignment and orientation of the respective properties to each other, the site location in a built-up urban area, and the limited height and scale of the construction proposed, it is my opinion that the proposal will not unduly impact on the residential amenity of the appellant's neighbouring property by reason of overshadowing.

7.5. Traffic Implications:

- 7.5.1. Given the restricted configuration and nature of the application site (in addition to the wider availability of public transport in the immediate vicinity), it is abundantly clear that the provision of on-site car parking is neither practical nor feasible. Furthermore, having regard to the site location within an established neighbourhood centre, the regulation and enforcement of on-street parking facilities in the area, and the overall availability of public transport locally, I would suggest that a refusal of permission on the basis of traffic congestion or the additional parking demands generated by the proposed development would be unreasonable. In my opinion, it would be entirely appropriate in this instance to address any additional demand on public parking facilities arising as a result of the proposed development by way of a development contribution towards the provision of same by the Local Authority. In this respect it should be noted that an allowance should be made for the parking requirements of the existing commercial use on site.

7.6. Infrastructural Requirements:

- 7.6.1. The proposed development will connect to the existing combined sewer on Monkstown Crescent and in this respect it is notable that no concerns have been raised by the Local Authority as regards the capacity of the mains system to accommodate the additional loadings consequent on the proposal, although it has been suggested that the applicant should investigate the possibility that a surcharge in the nearest manhole of the combined sewer would create a reflux into the surface water pipe thereby requiring the installation of a non-return valve.
- 7.6.2. In the absence of any evidence to the contrary, it would appear that the public sewerage system can adequately cater for the proposed development, subject to conditions.

7.7. Appropriate Assessment:

- 7.7.1. Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions set out below:

9.0 Reasons and Considerations

- 9.1. Having regard to the zoning objective for the site and to the existing pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be an acceptable use which would not injure the vitality and viability of the mixed-use area, would not lead to an overconcentration of restaurant uses in the area, 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 or of neighbouring protected structures, and would be acceptable in terms of traffic safety and convenience. 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 26th day of July 2019, 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. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. A grease trap shall be fitted on the kitchen drain to the satisfaction of the planning authority.

Reason: In the interest of public health.

3. The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

4. The restaurant/café shall operate between 0800 hours and 2200 hours only on any day.

Reason: In the interest of protecting the residential amenity of properties in the vicinity.

5. The premises shall be used as a sit-down restaurant exclusively and there shall be no sale of hot food for consumption off the premises, save with a further grant of permission by the planning authority or An Bord Pleanála on appeal.

Reason: To protect the amenity of the area.

6. The developer shall control odour emissions from the premises in accordance with measures which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of public health and to protect the amenities of the area.

7.

- a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location or at any point along the boundary of the site shall not exceed:-

- i. An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
- ii. An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

- b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

Reason: To protect the residential amenities of property in the vicinity of the site.

8. The rear yard shall not be accessible to the public.

Reason: To protect the residential amenities of property in the vicinity.

9. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area, and to allow the planning authority to assess the impact of any further signage through the statutory planning process.

10. 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 any further development on the site. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste. In particular, the Plan shall ensure that, during the construction phase, adequate off-carriageway parking facilities shall be provided for all traffic associated with the development, including delivery and service vehicles/trucks, and parking for all construction workers.

Reason: In the interests of public safety and amenity.

11. A plan containing details for the management of waste within the development, including the provision of facilities for its storage, separation and collection shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any further development on the site. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste, in the interest of protecting the environment.

12. 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.

Robert Speer
Planning Inspector

5th January, 2020