



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308865-20

<b>Development</b>	Protected Structure: alterations and extensions to existing vacant & dilapidated coach mews house previously in office use, construction of extension to front, alterations, refurbishment & restoration of interior to provide two bedroom plus study mews dwelling house
<b>Location</b>	66, Leeson Close, to rear of 66 Leeson Street Lower, Dublin 2
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	3413/20
<b>Applicant(s)</b>	D Lenihan & C Gunne
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	D Lenihan & C Gunne
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24 <sup>th</sup> February 2021
<b>Inspector</b>	Mary Crowley

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## 1.0 Site Location and Description

- 1.1.1. The appeal site has a stated area of 148.2 sqm and is a vacant office building located at No 66 Leeson Close, to the rear of No 66 Leeson Street Lower, Dublin 2 (Protected Structure Reference RPS No 4428). There is an existing 2 storey mews building on site and is also a Protected Structure by virtue of its location within the curtilage of the main town house that fronts onto Leeson Street Lower. Leeson Close, a former mews lane, is a narrow cul de sac serving residential and commercial development.
- 1.1.2. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail

## 2.0 Proposed Development

- 2.1. Planning permission is sought for alterations and extensions to an existing vacant and dilapidated coach mews house (63.2 sqm), a protected structure, previously in office use to a 2 bed residential unit. Works to include:
  - removal of non-original fabric including roof slates & windows/ doors
  - installation & repair with new roof slates & windows & doors and cleaning & repairs of existing stone & brick work
  - construction of new two storey extension to front to provide additional accommodation (52.3 sqm)
  - alterations, refurbishment & restoration of interior to provide two bedroom plus study mews dwelling house, new landscaping & boundary walls to rear and all other associated site development works, drainage, etc
  - alterations and changes to existing access & car parking & open space to rear of main property to facilitate works, including first floor balconies to both front and rear facades.
- 2.2. The application was accompanied by a cover letter and a Conservation Method Statement.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. DCC issued notification of decision to refuse permission for two reasons relating to (1) insufficient high standards of craftsmanship and insensitive form, scale, height, proportions, design, period and architectural detail and (2) inadequate information to justify the proposed interventions. The stated reasons are as follows:

- 1) *The subject site is a Protected Structure located within a Conservation Area and the proposal does not incorporate sufficiently high standards of craftsmanship nor relate sensitively to and complement the form, scale, height, proportions, design, period and architectural detail of the original coach house. Having regard for Sections 11.1.5.1 CHC2 (a)(b)(c)(d) and 16.10.16 (b) of the Dublin City Council Development Plan 2016-2022; the proposal would seriously injure the historic fabric, the historic form and features which contribute to the special architectural character of the Protected Structure which is the last remaining intact historic coach house along this stretch of terrace and would result in an undesirable precedent for similar type development in the area. The proposed development would therefore be contrary to the provisions of the Dublin City Development Plan 2016-2022 and not in accordance with the proper planning and sustainable development of the area.*
- 2) *Having regard for Section 11.1.5.3 of the Dublin City Council Development Plan 2016-2022; the level of information submitted (including an appropriately detailed assessment of the special interest of the structure that identifies all elements, both internal and external, detailed drawings, photographic survey and schedules of works and materials that would support the proposed works) is not adequate or of sufficient quality and as such cannot provide any justification for the proposed interventions and works, which would be likely to seriously injure the historic fabric and legibility of the Protected Structure. The proposed development would therefore be contrary to the provisions of the Dublin City Development Plan 2016-2022 and not in accordance with the proper planning and sustainable development of the area*

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- The **Case Planner** considered the proposed change a positive proposition. However, it was considered that the given the historic nature of the existing building the proposal did not seem to have any regard for the Protected Structure and that the proposal would result in an over scaled and imbalanced form of development, that would result in an undesirable precedent for similar type development in the area. Refusal was recommended in line with the recommendation of the DCC Conservation Officer. The notification of decision to refuse permission issued by DCC reflects this recommendation.

### 3.2.2. Other Technical Reports

- **Transportation Planning Division** – No objection subject to conditions relating to (1) submission of a Construction Management Plan, (2) all costs incurred by DCC shall be at the expense of the developer and (3) compliance with the requirements set out in the Code of Practice.
- **DCC Drainage Division Report** - No objection subject to conditions relating to (1) compliance with relevant Building Regulations, (2) compliance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 (available from [www.dublincity.ie](http://www.dublincity.ie) Forms and Downloads), (3) drainage shall be designed on a completely separate foul and surface water system, (4) obtain permission from all the owners of private system where required, (5) development shall incorporate Sustainable Drainage Systems, (6) an appropriate Flood Risk Assessment is carried out for the proposed development, (7) the outfall surface water manhole from this development must be constructed in accordance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 and (8) all private drainage are to be located within the final site boundary.
- **Conservation Officer** - Recommended refusal for two reasons relating to (1) proposal does not incorporate sufficiently high standards of craftsmanship nor relate sensitively to and complement the form, scale, height, proportions, design, period and architectural detail of the original building and (2) the level of information submitted is both inadequate and cannot provide any justification for the proposed

interventions and works, which would seriously injure the historic fabric and legibility of the Protected Structure. These reasons informed the recommendation of the Case Planner and the notification of decision to refuse permission issued by DCC.

### 3.3. Prescribed Bodies

- **Transport Infrastructure Ireland (TII)** - No objection subject to a Section 49 Supplementary Development Contribution Condition (Luas).

### 3.4. Third Party Observations

3.4.1. None

## 4.0 Planning History

4.1. There is no evidence of any previous planning application or subsequent appeal on this site. There was a previous application on the adjoining site that may be summarised as follows:

- **Reg Ref 3293/20** – DCC granted permission subject to 10 no conditions in December 2020 for the demolition of dilapidated non-original single and 2 storey additions to original coach mews (Protected Structure) and construction of new 2 storey extensions to front and rear of original coach mews demise. The subject site is within the curtilage of a protected structure at No 65, Leeson Close, Rear 65 Leeson Street Lower, Dublin 2.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The operative plan for the area is the **Dublin City Development Plan 2016-2022**. The appeal site is within a designated **Conservation Area** and an area zoned **Z1 Sustainable Residential Neighbourhoods** where the land use zoning objective is “*to protect, provide and improve residential amenities*”. The subject site is also a

**protected structure** (Protected Structure Reference RPS No 4428). Relevant Sections and Policy from Development Plan 2016-2022 are as follows:

5.1.2. **Section 14.8.2 Residential Neighbourhoods (Conservation Areas) – Zone Z2.**

The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such area, both protected and nonprotected.

5.1.3. **Chapter 11: Built Heritage and Culture**

- **Section 11.1.5.3 Protected Structures – Policy Application** - *Interventions to Protected Structures should be to the minimum necessary and all new works will be expected to relate sensitively to the architectural detail, scale, proportions and design of the original structure. The curtilage of a Protected Structure is often an essential part of the structure’s special interest. The design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure. Any development which has an adverse impact on the setting of a protected structure will be refused planning permission.*
- **Section 11.1.5.6 Conservation Area – Policy Application** - *New development should have a positive impact on local character. In seeking exemplary design standards, the planning authority will require development in Conservation Areas to take opportunities to enhance the area where they arise. Where proposals involve demolition, policy for demolition of protected structures and buildings in conservation areas should be referred to.*
- **Policy CHC1** - *To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.*
- **Policy CHC2** - *To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:*
  - a) *Protect or, where appropriate, restore form, features and fabric which contribute to the special interest*



- b) *Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances*
- c) *Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials*
- d) *Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure*
- **Policy CHC4** - *To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting all conservation areas will contribute positively to the character and distinctiveness; and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.*
- **Policy CHC5** - *To protect Protected Structures and preserve the character and the setting of Architectural Conservation Areas. The City Council will resist the total or substantial loss of:*
  - *Protected structures in all but exceptional circumstances (and will require the strongest justification, including professional input with specialist knowledge so that all options receive serious consideration).*
  - *Non-protected structures which are considered to make a positive contribution to the character and appearance of an Architectural Conservation Area, unless it can be demonstrated that the public benefits of the proposals outweigh the case for retention of the building.*

#### 5.1.4. Chapter 16, Development Standards

**Section 16.10.16 Mews Dwelling** - This section sets out criteria for assessment of proposed mews dwellings. The following section is relevant to this case:

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

5.1.5. **Appendix 24:** Protected Structures and Buildings in Conservation Areas

## 5.2. **Natural Heritage Designations**

5.2.1. The site is not located within a designated Natura 2000 site.

## 5.3. **EIA Screening**

5.3.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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. The first party appeal has been prepared and submitted by Patrick M Kerr Architecture on behalf of the applicant and may be summarised as follows:

6.1.2. **Principle of Development** - The principle of the development is not in question and that the zoning of the site and the policies and objective of the development plan encourage this type of development, subject to compliance with the normal planning considerations, including the appropriate protection of the historic stature.

6.1.3. **Quality of Design** - From a review of the detailed comments within the Conservation Officers specific concerns have been raised in relation to:

- height, bulk and massing
- materials
- floor surface
- protection of the significance and restoration of character

while not necessarily in agreement with these points it is contended that the concerns raised can all be easily and readily resolved to the satisfaction of the Planning Authority and could have been resolved by way of additional information. In addition the appeal was accompanied by a Conservation Assessment Report of the Mews Building prepared by a Conservation Architect & Historic Building Consultant that

concluded that “*the impact of these proposal on the existing building is therefore considered to be minimal and acceptable*”.

6.1.4. **Revised Design Proposals** - The principle elements that have been amended have been done so to address the concerns raised by the Planning Authority namely to reduce the impact of the extension on the existing structure, particularly the elevation of the mews facing onto Leeson Close.

1) **Height, Bulk and Massing of the Extensions** - To reduce the impact on the mews elevation:

- Omission of the small first floor extension and balcony to the kitchen area
- The separation of the proposed two storey extension to the front by including a double height glazed “box” element which will connect the new to the old while ensuring the old remains visual through the new glazed link
- The reduction of the height of the two-storey extension so that the gutter line of the original coach house is maintained through the line of the new extension

These revisions while retaining the original design will comply with the requirements of the Development Plan and alleviate the concerns raised by the Conservation Officer.

2) **Materials** - Concerns have been raised with some of the materials used, and in particular the timber vertical cladding to the front. To address these concerns this detail has been omitted. It is proposed that the walls to the new extension shall be brick to complement the existing painted stone finish to the mews elevation, such as an attractive white brick as indicated on the image below. The brick selection could be the subject of a condition.

3) **Protection of the Significance and Restoration of Character** - To ensure that the maximum amount of original material remains intact, minor alterations to the interior have been proposed so that only one new opening is required, namely at first floor level to provide a connection between the original structure to the new extension. All other existing openings remain as is including the “hay loft” door to the mews elevation and the two narrow slot openings as indicated on drawings enclosed.

6.1.5. **Precedent** - Noted that the matter of precedent initially used to support the application was used by the Local Authority to argue that the development to the adjacent property

at No65 was only granted permission because there was already an insensitive unauthorised development present. This could be viewed as rewarding a party for undertaking unauthorised development. However, as part of the planning process the Local Authority would have required the applicant to amend their design to be more in keeping with the desired intent. The proposed scheme before the Board has a much higher standard being applied to it than the neighbouring property.

## **6.2. Planning Authority Response**

6.2.1. None

## **6.3. Observations**

6.3.1. None

## **6.4. Further Responses**

6.4.1. None

## **7.0 Assessment**

7.1. This assessment is based on the plans and particulars submitted with the application as amended by the further plans and particulars submitted to An Bord Pleanála on 10<sup>th</sup> of December 2020.

7.2. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Protected Structure
- Level of Information Submitted
- Traffic Impact & Car Parking
- Appropriate Assessment
- Other Issues

### 7.3. Principle

- 7.3.1. Planning permission is sought for alterations and extensions to an existing vacant and dilapidated coach mews house (63.2 sqm), a protected structure, previously in office use to a 2 bed residential unit. The Mews building forms part of the curtilage of the Protected Structure at No 66 Leeson Street Lower and is within a designated Conservation Area and an area zoned Z1 Sustainable Residential Neighbourhoods where the land use zoning objective is “to protect, provide and improve residential amenities”. Residential development is a permissible use at this location. Accordingly, the principle of the development of a mews house at this location is acceptable in principle.

### 7.4. Protected Structure

- 7.4.1. The proposed works involve the restoration and refurbishment of the existing coach house mews structure and an extension to provide 2 bedroom plus study/home office residence. The proposed extension is located to the rear of the mews fronting onto Leeson Close. The extension has a curved feature wall and is in line with the existing and established main building line of the access laneway. A first-floor balcony was originally proposed, overlooking Leeson Close.
- 7.4.2. I agree with the Case Planner that the proposed change of use of the original coach house from office to residential is considered a positive proposition. However given the historic nature of the existing building, any refurbishment and development should be sympathetic to the historic character and legacy of the property. To this end DCC refused planning permission stating that the proposal did not incorporate sufficiently high standards of craftsmanship nor relate sensitively to and complement the form, scale, height, proportions, design, period and architectural detail of the original coach house and that the proposal would seriously injure the historic fabric, the historic form and features which contribute to the special architectural character of the Protected Structure which is the last remaining intact historic coach house along this stretch of terrace.
- 7.4.3. Having regard to the original scheme submitted I share the concern raised and support the reason for refusal. While the original proposal in absolute architectural terms was innovative and of a high standard, in relative terms it was unsympathetic in its design

relative to the historic character of the subject site. The extension was over-scaled relative to the main structure and in the absence of an architectural break between the old and new together with the introduction of the balcony, loss of original openings and choice of external materials the character of the mews would be overwhelmed to such an extent as to virtually disappear.

7.4.4. In response to the above reason for refusal the applicant in their appeal submitted an amended scheme summarised as follows:

- Omission of the first-floor extension and balcony to the kitchen area
- The separation of the proposed two storey extension to the front by introducing a double height glazed “box” connecting the new to the old ensuring the old remains visual through the new glazed link
- The reduction of the height of the two-storey extension so that the gutter line of the original coach house is maintained through the line of the new extension
- The timber vertical cladding to the front has been omitted. The walls to the new extension shall be brick to complement the existing painted stone finish to the mews elevation. Details to be agreed.
- Minor alterations to the interior have been proposed so that only one new opening is required, namely at first floor level to provide a connection between the original structure to the new extension. All other existing openings are remaining as is.

7.4.5. I consider that the proposed application as amended will represent a positive and appropriate extension to this protected structure. The development will ensure that this currently dilapidated building will be restored and “brought back to life” in a sensitive manner that is appropriately scaled and designed to be read independently of the mews building while respecting and maintaining the architectural and historic integrity of the former Coach House. I consider that the amended scheme represents a sympathetic design response in accordance with the objectives and policies of the Development Plan. I am also satisfied that the development does not cause any negative impact on the neighbouring structures and is in substantial compliance with the requirements of the Development Plan.

7.4.6. With regard to the comments pertaining to the grooved concrete floor reference is made to the Conservation Assessment Report of the Mews Building prepared by a Conservation Architect & Historic Building Consultant where it states that “*the rest of*

*the ground floor is one space, with a concrete floor grooved to allow the draining of horse effluvia, the pattern suggesting there were originally stalls for two horse, possibly with a raised division between them. It cannot be original as concrete was not used in the 1830's (when only brick or stone was available for such a purposes) so must date from a later refurbishment. It is suggested therefore that it would be unwise to call it "historic" or "significant" but merely "quite old and crude in execution".* Notwithstanding, this assessment I note the applicant's proposal that this floor is to be retained in situ, protected with a suitable isolating membrane and then covered with a new light weight appropriate floor finish, thereby preserving same floor detail and ensuring that the works are completely reversible. I consider this approach to be acceptable.

7.4.7. Reference is also made in the first reason for refusal to this being the last remaining intact historic coach house along this stretch of terrace. It was evident on day of site inspection that this was the last obvious coach house that was substantially intact. No 64, 67, 68 and 69 survive in part when viewed from within their respect sites. When viewed from Leeson Close however there is little if any evidence to suggest there was once a row of coach houses at this location. Whilst it is acknowledged that adjacent / neighbouring mews buildings have been developed in the past, the subject site is an original coach house and the sympathetic redevelopment of the property is paramount. Having regard to the orientation and elevational treatment of the coach house I consider that the primary elevation fronts into the site and faces the rear of No 66 Leeson Street Lower. I am satisfied that this element is adequately protected in the proposed development (as amended). With regard to the rear elevation that is visible from Leeson Close I consider that the proposed extension (as amended) is adequately subservient to the main structure and that the glazed box provides a suitable break between the old and new on site. I am satisfied that the revised proposal will ensure the protection of the surviving character and materials of the Coach House.

7.4.8. Having regard to the foregoing it is recommended that the first reason for refusal be set aside.

## **7.5. Level of Information Submitted**

- 7.5.1. DCC in its second reason for refusal (see Section 3.1 above) stated that the level of information submitted (including an appropriately detailed assessment of the special interest of the structure that identifies all elements, both internal and external, detailed drawings, photographic survey and schedules of works and materials that would support the proposed works) was not adequate or of sufficient quality to provide any justification for the proposed interventions and works, to the Protected Structure.
- 7.5.2. To this end I refer to the cover letter and accompanying Conservation Method Statement that included Historic Maps, Repair Methodology and Photographic Survey (internal and external) submitted with the application. I also refer to the appeal submission and accompanying Conservation Assessment Report submitted with the appeal. Taken together with my site inspection I am satisfied that there is adequate information on file to consider the proposed development and that this reason for refusal is set aside.
- 7.5.3. To ensure that the integrity of this protected structure is maintained throughout the build it is recommended that should the Board be minded to grant permission that a condition be attached requiring that (a) an architect or conservation expert be employed to design, manage, monitor and implement the works to the building and to ensure adequate protection of the retained and historic fabric during the works and that (b) all works are carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of the Environment, Heritage and Local Government.

## **7.6. Traffic Impact & Car Parking**

- 7.6.1. I refer to the report of the DCC Transportation Planning Division. The appeal site is accessible from Leeson Close, a former mews lane, that is approximately 6 m in width and provides vehicular access to a number of commercial and residential properties. There is no footpath provision and there are double yellow lines for the majority of the laneway with the exception of the north eastern section where there is evidence of overspill parking.



7.6.2. The proposed mews does not include for in-curtilage parking. It is noted that the existing coach mews benefits from 1 no. in-curtilage car parking space which will be removed by the proposed extension. It is noted that the proposed rear garden will impact on existing parking arrangements for No. 66 Leeson Street Lower with the removal of 2 no. parking spaces. I agree with the Transportation Planning Division that having regard to the central location and controlled parking, the zero car parking for the proposed mews and the reduction in car parking for the main house are considered acceptable in this instance.

### 7.7. **Appropriate Assessment**

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

### 7.8. **Other Issues**

7.8.1. **Development Contribution** - I refer to the Dublin City Council Development Contribution Scheme 2020-2023. Section 12 outlines development that will be liable for a reduced rate of development contributions under the Scheme. Under this section it is stated *that in the case of works to or change of use from residential to commercial use, of buildings included in the Record of Protected Structures development contributions will be calculated at 25% of the applicable rate.* It is further stated that *Protected Structure refers to the actual structure(s) and does not include development within its curtilage. Where development contributions under a Section 48 Scheme were paid in respect of the former use, the contribution payable on the new proposal will be net of the quantum of development previously paid for.*

7.8.2. The mews, while a protected structure by reason of its location within the curtilage of a Protect Structure at No 66 Leeson Street (RPS No 4428) is nonetheless, for the purposes of the Section 48 Development Contribution Scheme not the actual structure(s) at No 66 Leeson Street but rather a *development within its curtilage* and is therefore not exempt from the requirement to pay a Section 48 Development Contribution. No information has been made available with the appeal file pertaining

to any development contributions paid in respect of the existing use. If such development charges were paid the contribution payable on the new proposal will be net of the quantum of development previously paid for.

- 7.8.3. With regard to the proposed extension, I again refer to Section 12 of the scheme where it states that *permissions for minor extensions to Protected Structures shall be calculated at 50% of the applicable rate of contribution*. It is stated that *for the purposes of this Scheme, minor extension is defined as a new extension which is no greater than 50% of the extent of the total floorspace of the Protected Structure*. Again *Protected Structure refers to the actual structure(s) and does not include development within its curtilage*. Similar to the foregoing, the mews, while a protected structure by reason of its location within the curtilage of a Protected Structure at No 66 Leeson Street (RPS No 4428) is nonetheless, for the purposes of the Section 48 Development Contribution Scheme not the actual structure(s) at No 66 Leeson Street but rather a development within its curtilage and is therefore not exempt from the requirement to pay a Section 48 Development Contribution.
- 7.8.4. Having regard to the foregoing it is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.
- 7.8.5. **Supplementary Development Contribution** – As documented by Transport Infrastructure Ireland (TII) the proposed development falls within the area for an adopted Section 49 Supplementary Development Contribution Scheme – Luas Cross City (St Stephens Green to Broombridge Line) under S.49 Planning and Development Act, as amended.
- 7.8.6. With regard to the existing mews structure, I refer to Section 11 Exemptions of the scheme where it states that *works to and change of use from residential use to commercial and vice versa, of buildings included in the Record of Protected Structures shall be exempted from the requirement to pay development contributions under the Scheme*. It is stated that *Protected Structure refers to the actual structure(s) and does not include development within its curtilage*. This is an application for a change of use from office to residential use of the existing mews building at No 66 Leeson Close, which forms part of the curtilage of the Protected Structure at No. 66 Leeson Street

Lower (RPS. Ref. 4428). The mews, while a protected structure by reason of its location within the curtilage of a Protect Structure at No 66 Leeson Street (RPS No 4428) is nonetheless, for the purposes of the Section 49 Supplementary Development Contribution Scheme not the actual structure(s) at No 66 Leeson Street but rather a development within its curtilage and is therefore not exempt from the requirement to pay a Section 49 supplementary Development Contribution under this section of the scheme.

- 7.8.7. In the further consideration of the existing mews, I refer to Section 12 Reductions where it states that *in the case of a change of use from residential use to commercial / retail and vice versa, development contributions will be calculated at 50% of the applicable rate. Where development contributions under a Section 49 Scheme were paid in respect of the former use, the contribution payable on the new proposal will be net of the quantum of development previously paid for.* Having regard to the proposal for a change of use from commercial (office) to residential I am satisfied that the Section 49 Supplementary Development Contribution in respect of the existing mews shall be calculated at 50%. No information has been made available with the appeal file pertaining to any Section 49 Supplementary Development Contribution paid in respect of the existing use. If such development charges were paid the contribution payable on the change of use will be net of the quantum of development previously paid for.
- 7.8.8. With regard to the proposed extension, I refer to Section 12 Reductions where it states that *permissions for minor extensions to Protected Structures shall be calculated at 50% of the applicable rate of contribution. It is stated that for the purposes of this Scheme, minor extension is defined as a new extension which is no greater than 50% of the extent of the total floorspace of the Protected Structure. Again Protected Structure refers to the actual structure(s) and does not include development within its curtilage.* Similar to the foregoing, the mews, while a protected structure by reason of its location within the curtilage of a Protect Structure at No 66 Leeson Street (RPS No 4428) is nonetheless, for the purposes of the Section 49 Supplementary Development Contribution Scheme not the actual structure(s) at No 66 Leeson Street but rather a development within its curtilage and is therefore not exempt from the requirement to pay a Section 49 Supplementary Development Contribution.

7.8.9. Having regard to the foregoing it is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 49 Supplementary Development Contribution in respect of the Luas Cross City (St Stephens Green to Broombridge Line) in accordance with the Planning and Development Act 2000 (as amended) for the proposed extension element of the scheme only.

## 8.0 Recommendation

8.1. I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be **GRANTED** for the following reasons and considerations.

## 9.0 Reasons and Considerations

9.1. Having regard to the pattern of development in the vicinity, including a variety of commercial and residential properties of differing external scale and appearance along Leeson Close, the policy and objective provisions set out in the Dublin City Development Plan 2016-2022 in respect of residential development, the nature, scale and design of the proposed development (as amended), it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would not detract from the character or setting of the adjacent protected structure or of the mews itself, a protected structure and the subject of this appeal. 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 to An Bord Pleanála on 10 <sup>th</sup> day of December 2020, except as may otherwise be required in order to comply with the
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	<p>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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>a) An suitably qualified architect or conservation expert shall be employed to design, manage, monitor and implement the works to the building and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.</p> <p>b) All works to the protected structure shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of the Environment, Heritage and Local Government. Items to be removed shall be recorded prior to removal, catalogued, numbered and carefully stored to allow for authentic re-instatement.</p> <p><b>Reason:</b> To ensure that the integrity of this protected structure is maintained and that the proposed repair works are carried out in accordance with best conservation practice with no unauthorised or unnecessary damage or loss of historic building fabric</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>

5.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<p>a) The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste including any excess soil arising from the proposed excavation of the site.</p> <p>b) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.</p> <p>c) The developer shall be obliged to comply with the requirements set out in the Code of Practice.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity</p>
7.	<p>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</p>

	<p>referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> 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.</p>
8.	<p>The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Cross City (St Stephens Green to Broombridge Line) in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under Section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission</p>

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**Mary Crowley**

**Senior Planning Inspector**

**28<sup>th</sup> April 2020**