



An
Bord
Pleanála

Inspector's Report ABP 309199-20.

Development	Modifications to development permitted under P.A. Reg. Ref. 3150/17 and 4606/19: Increase in size of permitted basement under mews building and extension to connection to new basement at No 19 Montague Street and associated works.
Location	No 16 Harcourt Street, Mews at Rear facing onto Montague Lane and, No 19 Montague Street, Dublin 2.
Planning Authority	Dublin City Council
P. A. Reg. Ref.	3573/20
Applicant	Gambetta Ltd.,
Type of Application	Permission.
Decision	Refuse Permission
Type of Appeal	First Party x Refusal
Appellant	Gambetta Ltd.,
Date of Site Inspection	26 th April, 2021.
Inspector	Jane Dennehy

1.0 Site Location and Description

- 1.1. The site which has a stated area of 615 square metres and on which the three buildings subject of the permitted development are located is at the corner of Harcourt Street and Montague Street. At the rear and parallel to Harcourt Street is Montague Lane which a service lane. No 16 Harcourt Street is a four storey over basement building within the Georgian Streetscape of Harcourt Street and it has a stated floor area of 895 square metres. There is a rear access off Montague Lane, where there is an unoccupied single storey mews with a stated floor area of 83 square metres which is part of the original Georgian plot. The house is in office use on the upper floors and the basement and ground floor levels are unoccupied.
- 1.2. No 19 Montague Street and No 19A are early twentieth century two-storey buildings with frontage onto both Montague Street and Montague Lane. There are similar buildings to the east on the south side of Montague Street and opposite the site on the north side of Montague Street.

2.0 The Proposed Development

- 2.1.1. There is a concurrent application for development on a site formed from the application site and the site of No 18 Montague Street under P. A. Reg. Ref 3649/20. The planning authority decided to refuse permission and this decision is also subject of an undetermined first party appeal under ABP Ref.309198.
- 2.1.2. The application lodged with the planning authority indicates proposals for basement level extensions and modifications to a previously permitted development to existing current use as a licensed restaurant at basement level and additional use as a cafe bar, with use extended to external courtyard and external mezzanine level above courtyard level at No.16 Harcourt Street.
- 2.1.3. The addition of a basement level beneath No 19 Montague Street is to be an extension of the basement of the mews at the rear of No 16 Harcourt Street. The previously permitted basement (at the mews of No 16 Harcourt Street) is to be increased so that its area will be extended beyond the footprint of the mews and the boundary walls. These basements are to accommodate a kitchen, keg stores and five additional stores and an office.

- 2.1.4. The permitted use, having regard to the prior grants of permission for the rear mews of No.16 Harcourt Street and the ground floor of No.19 Montague Street is a licensed restaurant/cafe bar. (P. A. Reg. Refs 3150/17(PL 249126) and 4609/19. (PL 306760) refer)
- 2.1.5. The stated floor area of buildings to be demolished is 1315.50 square metres, buildings to be retained: 1256 square metres; new additional construction, 59 square metres resulting in a total stated floor are for the development of 1,315 square metres. The stated plot ratio is 2.1 and stated site coverage is 62%

3.0 Planning Authority Decision

3.1. Decision

By order dated, 10th December, 2020, the planning authority decided to refuse permission based on the following two reasons:

- 1. The proposed basement amalgamation across the historic plots and extension of permitted basement beneath the historic mews to the rear of No.16 Harcourt Street would seriously injure the architectural character, fabric and integrity of the protected mews would increase the extent of amalgamation across the historic plots and thus be overdevelopment of this modest site and would contravene Section 11.1.5.3 of the Dublin City Development Plan 2016 – 2022. The proposed development would therefore be seriously injurious to the special architectural character and integrity of the protected structures, would set an undesirable precedent in the city centre Georgian Core for similar developments to protected structures and would therefore be contrary to the proper planning and sustainable development of the area. “*
- 2. “The proposed excavation of a basement beneath No. 19 Montague Street to connect with the permitted basement beneath the adjoining historic mews to the rear of No. 16 Harcourt Street along with the extension of the basement under the mews to beyond the ground floor footprint would increase the risk of collapse of the historic mews which is already in poor and friable condition and would contravene Section 11.1.5.3 of the Dublin City Development Plan*

2016 – 2022. The proposed development would therefore be seriously injurious to the special architectural character and integrity of the protected structures, would set an undesirable precedent in the city centre Georgian Core for similar developments to protected structures and would therefore be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

- 3.2.1. The report of the **Conservation Officer** dated 4th December, 2020 indicates a recommendation for refusal of permission: It is stated that No 16 Harcourt Street is intrinsic to the surviving Georgian four storey over-basement streetscape and incorporates part of eighteenth century Clonmel House. Serious concern as to the piecemeal approach by way of lodgement of multiple and concurrent applications which can give rise to incremental adverse impacts including the breach of the party wall and interference with the historic plot of No 16 Harcourt Street. Refurbishment of the existing delapidated mews, if implemented to the highest standard in accordance with best conservation practice and put into sustainable use is supported.
- 3.2.2. Refusal of permission is recommended in the **Conservation Officer** report due to risk of collapse of the historic mews which is in friable condition, destabilisation of adjoining Montague Street buildings, and extensive amalgamation across and overdevelopment on historic plots. Refusal is recommended based on the reasons attached to the planning authority's decision which includes material contravention of Section 11.1.5.3 of the CDP.
- 3.2.3. The report of the **City Archaeologist** dated, 22nd November, 2020 indicates a recommendation for inclusion of an archaeological monitoring condition, if permission is granted.
- 3.2.4. The report of the **Drainage Division** dated 20th October, 2020 indicate no objection to the proposed development subject to conditions of a standard nature.

4.0 Planning History

P. A Reg. Ref. 3294/20: The planning authority decided to grant permission, on 21st March, 2021 for the installation of a new platform lift located to the street entrance, providing wheelchair accessibility from street level to the basement level. Planning is also sought for the removal of the existing stairs and construction of a new steel platform / landing area and stairs to provide for ambulant disabled access to the basement level, with associated security gate and site works.

P. A. Reg. Ref 3649/20: The planning authority decided to Refuse Permission, on 17th December, 2020, for the two reasons below, for proposals for modifications to the previously approved permission by PA. Reg. Ref. Ref. 3150/17 (PL.249126) (P.A. Reg. Ref. 4606/19). (ABP306760) for the addition of No. 18 Montague Street as part of the previously approved scheme with change of use from 'café' to 'cafe bar and restaurant' with associated upgrading works to the front facade and extension to the rear courtyard to include the incorporation of an internal fire escape stairs. Planning is also sought for the upgrading of the existing service entrance from Montague Street between No. 16 and 17 Montague Street, together with the provision of a new access laneway between No. 17 and 18 Montague Street. Planning is also sought for minor changes to the previously approved application to include minor interior changes and changes to the proposed elevations of No. 19 Montague Street and No. 16 Harcourt Street rear mews building. (The decision was not appealed.)

1 *" It is considered that the amalgamation of No.18 Montague Street into the previously approved proposed licensed restaurant/café bar development would constitute a 'superpub' which is contrary to the provisions of the Dublin City Development Plan 2016-2022 S.16.32 which seeks to discourage superpubs and which would lead to the over concentration of licensed premises in this area of the city. In addition, given the narrow/restricted nature of the Montague Street and Montague Lane, the proposed entry/exit points from the proposed licensed premises would also give rise to an unacceptable level of disturbance to the amenities of the area. The proposal would create disturbance at the boundaries of the proposed establishment which would*

have detrimental impact on nearby residential amenity, environmental quality and the established character of the area. On balance, the proposed development would undermine the character of the subject site, the streetscape and the amenities of nearby residents, would result in an undesirable precedent for similar type development, would depreciate the value of property in the vicinity and, as such, would be contrary to the proper planning and sustainable development of the area.”

2. *“The proposed amalgamation of No 18 Montague Street with No.16 Harcourt Street, across the historic plots combined with the extent of demolition proposed would constitute overdevelopment of the site and would contravene Dublin City Development Plan 2016 – 2022 11.1.5.3 Protected Structures – Policy Application which states: ‘Proposals for amalgamation between protected structures which compromise the original plan form will be considered unacceptable where they adversely affect the historic integrity and special interest of the structure. Breaches between party walls will not be acceptable in sensitive parts of the building’. The proposed development would, therefore, be harmful to the architectural character of No.16 Harcourt Street, a protected structure, would result in an undesirable precedent for similar type development, and would be contrary to the proper planning and sustainable development of the area.”*

P. A. Reg. Ref; 3315/20: A request for additional information was issued, (in response to which no further information was lodged) in respect of an application a change of use from vacant office use to cafe use, with ancillary staff areas, office space and kitchen at first floor, with removal works to the existing front facade to provide service hatch to Montague Street and general upgrading of the existing facade, internal removal works to allow for cafe use, together with removal and replacement of the rear external wall to allow for an extension and increased floor area of circa 10.5 sqm, the extension is proposed into the rear courtyard associated with the curtilage of No. 16 Harcourt Street, Dublin 2 (a Protected Structure, Dublin City Council RPS no. 3525). All with associated signage, drainage and site works.

P. A. Reg. Ref. 3294/20: A request for additional information was issued, (in response to which no further information was lodged) in respect of an application for permission for installation of a new platform lift located to the street entrance,

providing wheelchair accessibility from street level to the basement level. Planning is also sought for the removal of the existing stairs and construction of a new steel platform / landing area and stairs to provide for ambulant disabled access to the basement level, with associated security gate and site works.

P. A. Reg. Ref.4606/19 (PL 306760) The planning authority decision to refuse permission for exclusion of a condition relating to opening hours under the previously approved permission under P. A. Reg. Ref. 3150/17 (PL29S.249126 was overturned following appeal. Under Condition No 2 there is requirement for hours of operation to be confined to 07.00 hrs to 23.30 hours Mondays to Thursdays, 07.00 hours to 24.30 hours on Fridays and Saturdays and 0700 hours and 2300 hrs on Sundays with nightclub use not being permitted. The reason for the condition is amenity, environmental quality and the established character of the area

P. A. Reg. Ref. 4678/18 (PI29S.303948) Permission refused following appeal for development at No 16 Harcourt Street of an extension to existing current use as licensed restaurant at basement level and additional use as a cafe bar, with use extended to external courtyard and external mezzanine level above courtyard level; external works to include the removal of existing planters at the front entrance along Harcourt Street, cleaning and upgrading of front entrance area, installation of new steps over existing steps for ambulant disabled access, together with new handrails; removal works at basement level internally to accommodate 1 No. Bar, Storage, Toilets, Cloakroom and Seating Areas; demolition of 21st century single story rear extension to accommodate the construction of toilets, storage area, configuration of new entrance to basement level of No. 16, stairs and platform lift from basement to ground floor external courtyard level, internal removal works at Ground Floor/Annex to No. 16 to accommodate 3 replacement WC's, proposed works to No. 16 Harcourt Street approved under ABP Ref. PL29S.249126 (DCC Reg. Ref. 3150/17). The application also included proposals for the demolition of No. 16 Harcourt Street Mews Building together with demolition of No. 16, 17, 18 and 19 Montague Street to accommodate a licensed restaurant/cafe bar, pizzeria, coffee shop and hostel accommodation across basement to fourth floor level. All with associated signage, lighting, landscaping, plant space at roof level and associated site works.

The reason for refusal follows:

“Having regard to the established built form and historic character of the area, it is considered that the proposed development, by reason of its excessive scale, height, bulk and mass, would adversely affect the setting of nearby Protected Structures. The proposed development would seriously injure the visual amenities of the area, would be contrary to the stated policy of the planning authority, as set out in the Dublin City Development Plan 2016-2022, in relation to conservation and design, and would be contrary to the planning and sustainable development of the area.”

P. A. Reg. Ref. 3150/17 / PL 249126: The current application is a proposal for permission for removal of Condition No 2 attached to the grant of permission, further to first party appeal against the planning authority decision to refuse permission for an extension to Restaurant, additional use as a bar/café, demolition of extension to the rear and change of use of warehouse and pizzeria to use as a restaurant and bar together with all ancillary works.

P. A. Reg. Ref. 4678/1/ 303948: Further to a first party appeal the planning authority decision to refuse permission for extensions to the existing uses at No 16 Harcourt Street, reconfiguration of the existing building, entrance a courtyard area and, demolition of the mews at the rear of No 16 Harcourt Street and at Nos 16-18 Montague Street and provide for licensed bar, restaurant, café and hostel development was upheld. The reason related to adverse impact on the setting of the protected structures and established built form and historic character of the area due to excessive scale, mass, height and bulk

P. A. Reg. Ref. 4427/16: Permission was refused for:

- the demolition of a modern rear extension at basement level and ground floor level to the rear of the main building and the construction of various works to accommodate the extension to the existing use as a licensed restaurant at basement level and additional use as a café/bar together with alterations to the mews building to the rear to accommodate a bar at ground floor, restaurant café/bar and seating area at first and second floor level within the mews along with modifications to the existing courtyard area including the incorporation of external terraces and new additional external stairs.

- Works at No. 17 Harcourt Street to include the creation of two new openings at basement level within the main building for the purpose of circulation and reconnection of existing properties.
- Modifications were also sought to the mews building to the rear of No. 17 Harcourt Street together with a change of use from storage to licensed premises at ground floor and first floor level.
- Change of use from pizzeria to licensed restaurant and bar at No. 19 Montague Street.

In brief, the three reasons for refusal of permission are that of:

(1) overconcentration of licensed premises in the area as well as an unacceptable impact on amenities of the area through disturbance which would be contrary to Section 16.32 of the CDP.

(2) Irreversible interventions at Nos. 16 and 17 Harcourt Street would result in a significant loss of legibility and would affect the character of both buildings.

(3) the additional second floor to the mews to the rear of Nos. 16 and 17 Harcourt Street would have a detrimental visual impact on the historic character and fabric of the protected mews buildings.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the east section of site area facing onto and Harcourt Street comes within an area subject to the zoning objective: Z8: '*Georgian Conservation Areas*': *to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective*. This zoning objective is applicable for city areas of great eighteenth and nineteenth century expansion of the city in which there is significant architectural heritage.

The area within the site facing onto Montague Lane and Montague Street is subject to the zoning objective Z4: *To provide for and improve mixed services facilities*.

No 16 Harcourt Street and the Mews structure to its rear are included on the record of protected structures. Policy CHC1 provide for preservation of built heritage that positively contributes to the character and character of the streetscape

Policy CHC2 provides for ensuring the protection of the special character and integrity of protected structures. Guidance and standards on works and additions, internally and externally, to protected structures are set out in section 11.1.5.3 which provides for minimal intervention to and maximisation of retention historic fabric and original planform, protection of proportions within buildings and relative to adjoining buildings.

The site is within the zone of archaeological constraint for recorded monument (DU 018-020 Dublin City).

Policy QH 25 provides for encouragement of reintroduction of residential use in the historic city areas.

According to Section 16.32 it should be demonstrated that proposals for new uses such as casino, private members clubs, extensions to existing uses or variation in opening hours of a public house are not detrimental to residential amenities, environmental qualities or the established character and functions of the area.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was lodged by CDP Architecture on behalf of the applicant on 15th January, 2021 attached to which as a statement by John Green Historic Building Consultant dated, 14th January, 2021, and a revised strategy for development at The Mews at the rear of No 16 Harcourt Street prepared by Moloney Millar Engineers dated, 14th January, 2021. According to the appeal and accompanying statements:

- The current proposal is not significant as it is only for an extension to a permitted basement the principal for which has been established. The connection between No 19 Montague Street and the mews at No 16 Harcourt Street has previously been established by way of the prior grant of permission under P.A. Ref. Ref.3150/17 (PL 249126) The basement development will remain unseen and does not affect grain or rhythm.

- There were no concerns about the basement level proposals permitted under P.A. Reg.Ref.3150/17 (PL 249126) in the conservation officer report on that application which established the acceptability of basement level. The proposal is for an extension and is an opportunity for conservation works and expansion of the mews building reversing the decay associated with its obsolete underuse at present, improvements and rejuvenation at the the Montague Street and Montague Lane junction and for expansion of intensity and capacity. The existing mews was extended in the nineteenth century, poses risk of decay and has been significantly altered.
- The mews is not a protected structure. The revised strategy proposed for it and No 19 Montague Street involves removal of three external walls at No 19 Montague Street and their reconstruction as shown in the application.
- The rear courtyard elevation of the mews building is in poor condition. Works to this elevation are permitted under P.A. Reg. Ref. 3150/17 (PL 249126) as shown in an image included in the submission. The permitted openings on the eastern elevation results in loss of gauged brick surrounds and stain glass which were later additions, post construction and of limited historic or architectural merit. Removal of the wall in entirety is not proposed along with reconstruction using salvaged materials in accordance with best conservation practice. This is appropriate for conservation repair and maintenance of the mews buildings. It will retain the previously permitted arrangement of openings.
- With regard to the character of the protected structure, the inspector in his report on the proposal under P. A. Reg. Ref. 4678/18 (303948) comments that the then proposed basement is acceptable and in accordance with the CDP. subject to best conservation practice. Therefore, in the current application, a full construction and demolition and conservation method statement is provided. The permitted works under P.A. Ref. Ref.3150/17 (PL 249126) and proposed works to the mews building will contribute to consolidation and protection of the building which could be at risk of collapse.
- The statement in the conservation officer report as to unacceptability of a breach in the party wall between No 19,19A and the historic mews on the

current proposal is questionable because the conservation officer in the previous report indicates support for the proposal which was permitted under P.A. Ref. Ref.3150/17 (PL 249126)

- the development utilises redundant above and below ground space and as the plots have been altered and are redundant, the permitted and proposed amalgamation of curtilages would not affect the character of protected structures
 - that the works, including the disassembly of the wall of the mews and its reconstruction will be conducted under the direction of an experienced structural engineer and Conservation Architect
 - It is unreasonable to treat the buildings on Montague Street which have been significantly altered and extended as though they are protected structures.
- The legibility of the main Building (No 16 Harcourt Street) will not be negatively affected by the proposed interventions which include removal of internal partitions, replacement partitions, removal of a concrete staircase, reconstruction of a rear extension, landscaping and alterations to openings and provision for a terrace at the mews building.
 - In the supplementary statement by the applicant's structural engineer survey details and assessment of existing condition and permitted, previously implemented and proposed works for the walls of the mews structure and No 19 Montague Street are provided. It is confirmed that following construction of the basement and the laying of the ground floor slab the walls are to be rebuilt as far as possible with use of reclaimed material and in the original configuration.

6.2. Planning Authority Response

6.2.1. There is no submission from the planning authority on file.

7.0 Assessment

- 7.1.1. Use which contributes to maximisation of use and the vitality and viability of underutilised or obsolete sites within the historic core of the city is to be supported subject to acceptability, having regard to good conservation practice of proposal for demolitions and other interventions, alterations and additions. The subject site is assembled from the plot of the protected structure, No. 16 Harcourt Street and its mews structure facing onto Montague Lane and, Nos 19 and 19A Montague Street which share a boundary with the mews.
- 7.1.2. Extensive additional works to those previously permitted are proposed to facilitate the proposed expansion of basement level floor space and the range of facilities within the development. While the assessment and outline of the proposed works for the mews' walls provided by the applicant's structural engineer is noted, the Conservation Officer has indicated serious concern as to increased risk of collapse of the mews structure due to the poor friable condition of the fabric and structure.
- 7.1.3. Furthermore, the proposed development would result in an increased loss of legible historic plots due to the increase in amalgamation involved in providing for the proposals subject of the current application. It is agreed with the Conservation Officer that the losses attributable to the proposed interventions in this regard and the risks to the survival of the historic mews structure and fabric to facilitate expansion and intensification of the permitted use cannot be justified having regard to the interests of sustainable development which is consistent with and functional to architectural heritage protection.
- 7.1.4. The small-scale terraced houses on Montague Street are of architectural heritage merit as intrinsic features in grain, rhythm, character and homogeneity in character of the streetscape although, as stated in the appeal they are not included on the record of protected structures. To this end, it is considered that the conservation officer's concerns about risk of destabilisation of these structures due to the extent and nature of the proposed works to facilitate the proposed basement extension are reasonable.
- 7.1.5. It is recommended that the planning authority decision to refuse permission be upheld based on the reasoning provided below. However, in the event of possible favourable consideration, it is recommended that prior to determination of a decision,

a building survey and condition study and method statement by a structural engineer with specialist expertise in historic building conservation.

7.2. Environmental Impact Assessment Screening.

7.2.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.3. Appropriate Assessment Screening.

7.3.1. Having regard to the nature of the proposed development and, to the serviced inner urban location, no Appropriate Assessment issues proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

In view of the foregoing, it is recommended that the planning authority decision to refuse permission be upheld, based on the reasons and considerations below.

9.0 Reasons and Considerations

It is considered that by reason of the nature and extent of the works required to facilitate construction of the proposed basement extension would increase risk that the mews structure at the rear of No 16 Harcourt Street (a protected structure) would not survive due to its poor and friable condition and, risk that the adjoining terraced buildings on Montague Street, could be destabilised due to the increase in the extent of amalgamation required to provide for the basement extension straddling the historic plots. Furthermore, the proposed development would seriously injure the integrity and special interest of the mews structure and would be contrary to Section 11.1.5.3 of the Dublin City Development Plan, 2016-2022 according to which amalgamation between protected structures which compromises

original planform and, breaches in party walls in sensitive locations are unacceptable if there is adverse impact on historic integrity and special interest of the structure. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Jane Dennehy
Senior Planning Inspector
May, 2021